



# California Regulatory Notice Register

REGISTER 2010, NO. 48-Z

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NOVEMBER 26, 2010

## PROPOSED ACTION ON REGULATIONS

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### TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

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The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

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## PROPOSED ACTION ON REGULATIONS

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### TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by Sections 82011, 87303 and 87304 of the Government Code to review proposed conflict-of-interest codes, will review the proposed/amended conflict-of-interest codes of the following:

#### CONFLICT-OF-INTEREST CODES

##### AMENDMENT

MULTICOUNTY: San Bernardino Community College District

A written comment period has been established commencing on **November 26, 2010** and closing on **January 10, 2011**. Written comments should be directed to the Fair Political Practices Commission, Attention: Cyndi Glaser, 428 J Street, Suite 620, Sacramento, California 95814.

At the end of the 45-day comment period, the proposed conflict-of-interest code(s) will be submitted to the Commission's Executive Director for his review; unless any interested person or his or her duly authorized representative requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code(s) will be submitted to the Commission for review.

The Executive Director of the Commission will review the above-referenced conflict-of-interest code(s), proposed pursuant to Government Code Section 87300, which designate, pursuant to Government Code Section 87302, employees who must disclose certain investments, interests in real property and income.

The Executive Director of the Commission, upon his or its own motion or at the request of any interested person, will approve, or revise and approve, or return the proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Direc-

tor of the Commission, relative to review of the proposed conflict-of-interest code(s). Any written comments must be received no later than **January 10, 2011**. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

#### COST TO LOCAL AGENCIES

There shall be no reimbursement for any new or increased costs to local government which may result from compliance with these codes because these are not new programs mandated on local agencies by the codes since the requirements described herein were mandated by the Political Reform Act of 1974. Therefore, they are not "costs mandated by the state" as defined in Government Code Section 17514.

#### EFFECT ON HOUSING COSTS AND BUSINESSES

Compliance with the codes has no potential effect on housing costs or on private persons, businesses or small businesses.

#### AUTHORITY

Government Code Sections 82011, 87303 and 87304 provide that the Fair Political Practices Commission as the code reviewing body for the above conflict-of-interest codes shall approve codes as submitted, revise the proposed code and approve it as revised, or return the proposed code for revision and re-submission.

#### REFERENCE

Government Code Sections 87300 and 87306 provide that agencies shall adopt and promulgate conflict-of-interest codes pursuant to the Political Reform Act and amend their codes when change is necessitated by changed circumstances.

#### CONTACT

Any inquiries concerning the proposed conflict-of-interest code(s) should be made to Cyndi Glaser, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 327-5966.

#### AVAILABILITY OF PROPOSED CONFLICT-OF-INTEREST CODES

Copies of the proposed conflict-of-interest codes may be obtained from the Commission offices or the re-

spective agency. Requests for copies from the Commission should be made to Cyndi Glaser, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 327-5966.

## TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by Sections 82011, 87303, and 87304 of the Government Code to review proposed conflict-of-interest codes, will review the proposed/amended conflict-of-interest codes of the following:

### CONFLICT-OF-INTEREST CODES

#### AMENDMENT

STATE: State Race Track Leasing Commission  
Del Mar Race Track Authority

A written comment period has been established commencing on **November 26, 2010**, and closing on **January 10, 2011**. Written comments should be directed to the Fair Political Practices Commission, Attention **Cynthia Fisher**, 428 J Street, Suite 620, Sacramento, California 95814.

At the end of the 45-day comment period, the proposed conflict-of-interest code(s) will be submitted to the Commission's Executive Director for his review, unless any interested person or his or her duly authorized representative requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code(s) will be submitted to the Commission for review.

The Executive Director of the Commission will review the above-referenced conflict-of-interest code(s), proposed pursuant to Government Code Section 87300, which designate, pursuant to Government Code Section 87302, employees who must disclose certain investments, interests in real property and income.

The Executive Director of the Commission, upon his or its own motion or at the request of any interested person, will approve, or revise and approve, or return the proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict-of-interest code(s). Any written comments must be received no later than **January 10, 2011**.

If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

### COST TO LOCAL AGENCIES

There shall be no reimbursement for any new or increased costs to local government which may result from compliance with these codes because these are not new programs mandated on local agencies by the codes since the requirements described herein were mandated by the Political Reform Act of 1974. Therefore, they are not "costs mandated by the state" as defined in Government Code Section 17514.

### EFFECT ON HOUSING COSTS AND BUSINESSES

Compliance with the codes has no potential effect on housing costs or on private persons, businesses or small businesses.

### AUTHORITY

Government Code Sections 82011, 87303 and 87304 provide that the Fair Political Practices Commission as the code reviewing body for the above conflict-of-interest codes shall approve codes as submitted, revise the proposed code(s) and approve it as revised, or return the proposed code(s) for revision and re-submission.

### REFERENCE

Government Code Sections 87300 and 87306 provide that agencies shall adopt and promulgate conflict-of-interest codes pursuant to the Political Reform Act and amend their codes when change is necessitated by changed circumstances.

### CONTACT

Any inquiries concerning the proposed conflict-of-interest code(s) should be made to **Cynthia Fisher**, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

### AVAILABILITY OF PROPOSED CONFLICT-OF-INTEREST CODES

Copies of the proposed conflict-of-interest codes may be obtained from the Commission offices or the respective agency. Requests for copies from the Commission should be made to **Cynthia Fisher**, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

## TITLE 2. COMMISSION ON STATE MANDATES

### NOTICE OF PROPOSED RULEMAKING

The Commission on State Mandates (Commission) proposes to adopt the regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

#### PUBLIC HEARING

The Commission has not scheduled a public hearing for this proposed action. However, if it receives a written request for a public hearing from any interested person or his or her authorized representative no later than 15 days before the close of the written comment period, the Commission will conduct a public hearing on this proposed action on January 27, 2011, and will notify all persons of the date, time, and location of the hearing pursuant to Government Code section 11346.8(a).

#### WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Commission. The written comment period closes at **5:00 p.m. on January 28, 2011**. The Commission will consider only comments received at the Commission offices by that time. Submit comments to:

Heidi Palchik, Program Analyst  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814

#### AUTHORITY AND REFERENCE

Government Code section 17527(g) authorizes the Commission to adopt the proposed regulations. The purpose of the proposed regulation is to update the Commission's Conflict of Interest Code Appendix to accurately reflect the Commission employees who are designated to file economic interest statements with the Fair Political Practices Commission and their disclosure categories.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Commission is a seven-member quasi-judicial body authorized to resolve disputes regarding the exis-

tence of state-mandated local programs (Gov. Code, § 17500 et seq.) and to hear matters involving applications for a finding of significant financial distress (Welf. & Inst. Code, § 17000.6). The purpose of the proposed regulation is to update the Commission's Conflict of Interest Code Appendix to accurately reflect the Commission employees who are designated to file economic interest statements with the Fair Political Practices Commission and their disclosure categories.

Therefore, the Commission proposes to amend Article 9, section 1189.10 to the California Code of Regulations, Division 2, Title 2, Chapter 2.5 with a proposed effective date 30 days after filing with the Secretary of State.

The Political Reform Act requires state and local government agencies to adopt and promulgate Conflict of Interest Codes. The Conflict of Interest Code includes an Appendix that identifies the officials and employees who are required to file statements of economic interest with the Fair Political Practices Commission (FPPC), and designates disclosure categories for each official and employee. The FPPC's regulations contain a standard Conflict of Interest Code, which state agencies can incorporate by reference into their own regulations. Therefore, the Commission adopts the FPPC's standard Conflict of Interest Code as its own under section 1189.10 of the Commission's regulations, along with the Appendix in which officials and employees are designated disclosure categories.

Under the FPPC's regulations, substantive amendments to the Conflict of Interest Code and Appendix require initiation of a rulemaking package. The following is a summary of the proposed regulations:

#### Section 1189.10. General Provisions

##### *Specific Purpose of the Regulation*

This section contains the Commission's Conflict of Interest Code and the Appendix that specifies which Commission employees are designated to file statements of economic interest with the Fair Political Practices Commission, and their disclosure categories.

##### *Proposed Changes*

The proposed changes add new classifications, amend existing classifications, and delete classifications as follows:

- Add Staff Counsel III, or Attorney II or other successor title designated by the State Personnel Board
- Add "or Attorney I or other successor title designated by the State Personnel Board" to the Staff Counsel classification
- Add Senior Information Systems Analyst
- Delete Staff Services Manager III
- Delete Information Services Technician



- Delete Assistant Information Systems Analyst

#### DISCLOSURES REGARDING THE PROPOSED ACTION

The Commission has made the following initial determinations:

Mandate on local agencies and school district:	None
Cost or savings to any state agency:	None
Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630:	None
Other non-discretionary cost or savings imposed on local agencies:	None
Cost or savings in federal funding to the state:	None

Significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: None

Significant effect on housing costs: None

Cost impacts on a representative private person or business: The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Adoption of these regulations will not:

- (1) create or eliminate jobs within California;
- (2) create new businesses or eliminate existing businesses within California; or
- (3) affect the expansion of businesses currently doing business within California.

*Small Business Determination:* Because the Commission has no jurisdiction over small businesses, the proposed regulatory action will have no impact on small businesses.

#### CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Commission must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The Commission invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

#### CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Heidi Palchik, Program Analyst  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814  
Telephone: (916) 323-3562  
([heidi.palchik@csm.ca.gov](mailto:heidi.palchik@csm.ca.gov))

The backup contact person for these inquiries is:

Nancy Patton, Assistant Executive Director  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814  
Telephone: (916) 323-3562  
([nancy.patton@csm.ca.gov](mailto:nancy.patton@csm.ca.gov))

Please direct requests for copies of the proposed text (the "express terms") of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based to Ms. Heidi Palchik at the above address.

#### AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Commission will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the initial statement of reasons, and the Commission order to initiate rulemaking proceedings. Copies may be obtained by contacting Ms. Heidi Palchik at the address or phone number listed above. All persons on the Commission's interested persons mailing list will automatically be sent a copy of the rulemaking file.

#### AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, and holding a public hearing, if necessary, the Commission may adopt the proposed regulations substantially as described in this notice. If the Commission makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Commission adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Ms. Heidi Palchik at the address indicated above. The Commission will accept written comments on the mo-

diffied regulations for 15 days after the date on which they are made available.

#### AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Ms. Heidi Palchik at the above address.

#### AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout can be accessed through our website at [www.csm.ca.gov](http://www.csm.ca.gov).

### TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

#### Notice of Proposed Rulemaking

The Department of Food and Agriculture amended Section 3437 of the regulations in Title 3 of the California Code of Regulations pertaining to European Grapevine Moth Interior (EGVM) Quarantine as an emergency action that was effective on May 13, 2010. The Department proposes to continue the regulation as amended and complete the amendment process by submission of a Certificate of Compliance no later than January 16, 2011.

The Department of Food and Agriculture amended Section 3437 of the regulations in Title 3 of the California Code of Regulations pertaining to European Grapevine Moth Interior (EGVM) Quarantine as an emergency action that was effective on June 1, 2010. The Department proposes to continue the regulation as amended and complete the amendment process by submission of a Certificate of Compliance no later than January 16, 2011.

The Department of Food and Agriculture amended Section 3437 of the regulations in Title 3 of the California Code of Regulations pertaining to European Grapevine Moth Interior (EGVM) Quarantine as an emergency action that was effective on July 1, 2010. The Department proposes to continue the regulation as amended and complete the amendment process by submission of a Certificate of Compliance no later than January 16, 2011.

The Department of Food and Agriculture amended Section 3437 of the regulations in Title 3 of the California Code of Regulations pertaining to European Grapevine Moth Interior (EGVM) Quarantine as an emergency

cy action that was effective on July 20, 2010. The Department proposes to continue the regulation as amended and complete the amendment process by submission of a Certificate of Compliance no later than January 16, 2011.

The Department of Food and Agriculture amended Section 3437 of the regulations in Title 3 of the California Code of Regulations pertaining to European Grapevine Moth Interior (EGVM) Quarantine as an emergency action that was effective on August 11, 2010. The Department proposes to continue the regulation as amended and complete the amendment process by submission of a Certificate of Compliance no later than January 16, 2011.

The Department of Food and Agriculture amended Section 3437 of the regulations in Title 3 of the California Code of Regulations pertaining to European Grapevine Moth Interior (EGVM) Quarantine as an emergency action that was effective on August 17, 2010. The Department proposes to continue the regulation as amended and complete the amendment process by submission of a Certificate of Compliance no later than January 16, 2011.

The Department of Food and Agriculture amended Section 3437 of the regulations in Title 3 of the California Code of Regulations pertaining to European Grapevine Moth Interior (EGVM) Quarantine as an emergency action that was effective on September 27, 2010. The Department proposes to continue the regulation as amended and complete the amendment process by submission of a Certificate of Compliance no later than January 16, 2011.

#### PUBLIC HEARING

The Department has not scheduled a public hearing on this proposed action. However, the Department will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days before the close of the written comment period.

#### WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory actions to the Department. Comments may be submitted by mail, facsimile (FAX) at 916.654.1018 or by email to [smccarthy@cdfa.ca.gov](mailto:smccarthy@cdfa.ca.gov). The written comment period closes at **5:00 p.m. on January 10, 2011**. The Department will consider only comments received at the Department offices by that time. Submit comments to:

Susan McCarthy  
Department of Food and Agriculture  
Plant Health and Pest Prevention Services  
1220 N Street, Room 210  
Sacramento, California 95814

#### **AUTHORITY AND REFERENCE**

The Department amended Section 3437 pursuant to the authority vested by Sections 401.5, 403, 407, 5301, 5302 and 5322 of the Food and Agricultural Code of California. The Department amended Section 3437 to implement, interpret and make specific Sections 5301, 5302 and 5322, Food and Agricultural Code.

#### **INFORMATIVE DIGEST**

Existing law provides that the Secretary is obligated to investigate the existence of any pest that is not generally distributed within this State, determine the probability of and prevent its spread, and investigate the feasibility of its control or eradication (Food and Agricultural Code (FAC) Sections 403 and 5321).

Existing law also provides that the Secretary may establish, maintain and enforce quarantine, eradication and other such regulations as he deems necessary to protect the agricultural industry from the introduction and spread of pests (FAC Sections 401, 403, 407 and 5322).

The amendments of Section 3437 expanded the regulated areas in Napa, Solano and Sonoma counties, created new regulated areas in Fresno, Lake, Mendocino, Merced, San Joaquin and Santa Clara counties and expanded the buffer zone around EGVM detections to five miles. The effect of the amendments of this regulation was to provide authority for the State to perform quarantine activities against EGVM within these additional regulated areas of Fresno, Lake, Mendocino, Merced, Napa, San Joaquin, Santa Clara, Solano and Sonoma counties.

#### **DISCLOSURES REGARDING THE PROPOSED ACTION**

The Department has made the following initial determinations:

Mandate on local agencies and school districts: None.  
Costs or savings to any state agency: None.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None.

Other nondiscretionary cost or savings imposed on local agencies: None.

Costs or savings in federal funding to the state: None.

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None.

The types of businesses which are expected to be affected by this regulation include retail and wholesale nurseries, grower/grove managers of vineyards and/or olive groves, harvesters and haulers of grapes and other fruits, treatment/shipping storing/packing and receiving establishments of grapes.

Cost impacts on a representative private person or business: The estimated cost impact of the adopted regulation on a representative private person or business is not expected to be significantly adverse. A representative business could incur costs of approximately \$570.

These regulatory actions will not:

- (1) create or eliminate jobs within California;
- (2) create new business or eliminate existing businesses within California; or
- (3) affect the expansion of businesses currently doing business within California.

Significant effect on housing costs: None.

Small Business Determination: The Department has determined that the proposed regulations affect small business.

#### **CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code section 11346.5, subdivision (a)(13), the Department of Food and Agriculture must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The Department invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

#### **CONTACT**

Inquiries concerning the proposed administrative action may be directed to:

Susan McCarthy  
Department of Food and Agriculture  
Plant Health and Pest Prevention Services  
1220 N Street, Room 210  
Sacramento, California 95814  
916.654.1017  
FAX 916.654.1018  
[smccarthy@cdfa.ca.gov](mailto:smccarthy@cdfa.ca.gov)



The backup contact person for these inquiries is:

Stephen Brown  
Department of Food and Agriculture  
Plant Health and Pest Prevention Services  
1220 N Street, Room 210  
Sacramento, California 95814  
916.654.1017  
FAX 916.654.1018  
[sbrown@cdfa.ca.gov](mailto:sbrown@cdfa.ca.gov)

Please direct requests for copies of the proposed text (the “express terms”) of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based to Ms. McCarthy at the above address.

#### INTERNET ACCESS

The Department has posted the information regarding this proposed regulatory action on its website ([www.cdfa.ca.gov/cdfa/pendingregs](http://www.cdfa.ca.gov/cdfa/pendingregs)).

#### AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE

The Department of Food and Agriculture will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the initial statement of reasons for the proposed action and the express terms of the proposed action. Copies may be obtained by contacting Susan McCarthy at the address or phone number listed above.

#### AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, the Department may adopt, repeal and/or amend the proposed regulations substantially as described in this notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Susan McCarthy at the address indicated above. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

#### AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons will be posted on the Department’s web site or a copy may be obtained by contacting Ms. McCarthy at the above address.

#### TITLE 5. STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

#### NOTICE OF PROPOSED RULEMAKING

#### AMENDMENT TO CALIFORNIA CODE OF REGULATIONS, TITLE 5 REGARDING WORK EXPERIENCE

[Notice published November 26, 2010]

**NOTICE IS HEREBY GIVEN** that the State Superintendent of Public Instruction (SSPI) proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

#### PUBLIC HEARING

California Department of Education (CDE) staff, on behalf of the SSPI, will hold a public hearing at 1:00 p.m. on January 11, 2011, at 1430 N Street, Room 1801, Sacramento, California. The room is wheelchair accessible. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The SSPI requests, but does not require, that persons who make oral comments at the hearing also submit a written summary of their statements. No oral statements will be accepted subsequent to this public hearing.

#### WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to:

Debra Thacker, Regulations Coordinator  
Administrative Support and Regulations  
Adoption Unit  
California Department of Education  
1430 N Street, Room 5319  
Sacramento, California 95814

Comments may also be submitted by facsimile (FAX) at 916–319–0155 or by e–mail to [regcomments@cde.ca.gov](mailto:regcomments@cde.ca.gov).

Comments must be received by the Regulations Coordinator prior to 5:00 p.m. on January 11, 2011. All written comments received by CDE staff during the public comment period are subject to disclosure under the Public Records Act.

#### **AVAILABILITY OF CHANGED OR MODIFIED TEXT**

Following the public hearing and considering all timely and relevant comments received, the SSPI may adopt the proposed regulations substantially as described in this Notice or may modify the proposed regulations if the modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified regulation will be available for 15 days prior to its adoption from the Regulations Coordinator and will be mailed to those persons who submit written comments related to this regulation, or who provide oral testimony at the public hearing, or who have requested notification of any changes to the proposal.

#### **AUTHORITY AND REFERENCE**

Authority: Sections 49117 and 51762, Education Code.

Reference: Sections 49110, 49114, 49116, 49117, 49160, 49162, 51760, 51760.3, 51762.5, 51764 and 51769, Education Code.

#### **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

California Education Code section 51762 states the CDE shall adopt any rules and regulations necessary to implement a Work Experience Education program as depicted in California Code of Regulations, title 5, sections 10070 through 10075. The proposed amendments will clarify the standards set by the SSPI in order to better support local educational agencies in the Work Experience Education program application procedures.

#### **INCORPORATION BY REFERENCE DOCUMENTS**

The SSPI is incorporating the Permit to Employ and Work (CDE Form B1-4, revised 7-10) and the Statement of Intent to Employ a Minor and Request for Work Permit/Certificate of Age (CDE Form B1-1 revised 7-10) by reference rather than publish them in the California Code of Regulations because it would be cumbersome and inefficient to publish them in the

California Code of Regulations. A copy of these documents can be obtained by contacting the Regulations Coordinator.

#### **DISCLOSURES REGARDING THE PROPOSED REGULATION**

*The SSPI has made the following initial determinations:*

Mandate on local agencies or school districts: None  
Cost or savings to state agencies: None

Costs to any local agencies or school districts for which reimbursement would be required pursuant to Part 7 (commencing with section 17500) of division 4 of the Government Code: None

Other non-discretionary cost or savings imposed on local educational agencies: None

Cost or savings in federal funding to the state: None

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None

Cost impacts on a representative private person or businesses: The SSPI is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Adoption of these regulations will not 1) create or eliminate jobs within California; 2) create new businesses or eliminate existing businesses within California; or 3) affect the expansion of businesses currently doing business within California.

Effect on housing costs: None

Effect on small businesses: The proposed amendments to the regulations do not affect small businesses because the regulations apply only to school districts and not to business practices.

#### **CONSIDERATION OF ALTERNATIVES**

The SSPI must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the SSPI, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action.

The SSPI invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

#### **CONTACT PERSONS**

Inquiries concerning the content of this regulation may be directed to:

Kimberly Born, Education Program Consultant  
Career and Workforce Innovation Unit  
California Department of Education  
1430 N Street, Suite 4503  
Sacramento, CA 95814  
Telephone: 916-319-0498  
E-mail: [kborn@cde.ca.gov](mailto:kborn@cde.ca.gov)

Inquiries concerning the regulatory process may be directed to the Regulations Coordinator or Donna Barr, Analyst, at 916-319-0860.

#### INITIAL STATEMENT OF REASONS AND INFORMATION

The SSPI has prepared an initial statement of reasons for the proposed regulation and has available all the information upon which the proposal is based.

#### TEXT OF PROPOSED REGULATION AND CORRESPONDING DOCUMENTS

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Regulations Coordinator. These documents may also be viewed and downloaded from the CDE's Web site at <http://www.cde.ca.gov/re/lr/rr>.

#### AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the Regulations Coordinator.

You may obtain a copy of the final statement of reasons, once it has been finalized, by making a written request to the Regulations Coordinator.

#### REASONABLE ACCOMMODATION FOR ANY INDIVIDUAL WITH A DISABILITY

Pursuant to the *Rehabilitation Act of 1973*, the *Americans with Disabilities Act of 1990*, and the *Unruh Civil Rights Act*, any individual with a disability who requires reasonable accommodation to attend or participate in a public hearing on proposed regulations, may request assistance by contacting Kimberly Born, Education Program Consultant, 1430 N Street, Sacramento, CA, 95814; telephone, 916-319-0498. It is recommended that assistance be requested at least two weeks prior to the hearing.

## TITLE 5. BOARD OF EDUCATION

### NOTICE OF PROPOSED RULEMAKING

#### AMENDMENT TO CALIFORNIA CODE OF REGULATIONS, TITLE 5 REGARDING LOCAL EDUCATIONAL AGENCY REDUCTIONS IN FORCE

[Notice published November 26, 2010]

**NOTICE IS HEREBY GIVEN** that the State Board of Education (SBE) proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

#### PUBLIC HEARING

California Department of Education (CDE) staff, on behalf of the SBE, will hold a public hearing beginning at 9:00 a.m. on January 10, 2011, at 1430 N Street, Room 1801, Sacramento, California. The room is wheelchair accessible. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The SBE requests, but does not require, that persons who make oral comments at the hearing also submit a written summary of their statements. No oral statements will be accepted subsequent to this public hearing.

#### WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to:

Debra Thacker, Regulations Coordinator  
Administrative Support and Regulations  
Adoption Unit  
California Department of Education  
1430 N Street, Room 5319  
Sacramento, California 95814

Comments must be received by the Regulations Coordinator by 5:00 p.m. on January 10, 2010. All written comments received by CDE staff during the public comment period are subject to disclosure under the Public Records Act.

#### AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the public hearing and considering all timely and relevant comments received, the SBE may

adopt the proposed regulations substantially as described in this Notice or may modify the proposed regulations if the modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified regulation will be available for 15 days prior to its adoption from the Regulations Coordinator and will be mailed to those persons who submit written comments related to this regulation, or who provide oral testimony at the public hearing, or who have requested notification of any changes to the proposal.

## AUTHORITY AND REFERENCE

Authority: Sections 33030 and 33031, Education Code.

Reference: Sections 1 and 5 of Article 9, Constitution of California, Sections 44660, 44662, 44955, 45028 and 53202, Education Code, and Sections 1111 and 1116, Elementary and Secondary Education Act (20 U.S.C. Sec. 6301 et seq.), *Serrano v. Priest* (1976) 18 Cal.3d, *Butt v. State* (1992) 4 Cal.4th and *O'Connell v. Superior Court* (2006) 141 Cal.App.4th.

## INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Education Code section 44955 requires that, when a reduction in the number of certificated employees employed by a school district is authorized, the layoffs occur in order of employee seniority. However, Sections 1 and 5 of Article 9 of the Constitution of California and established legal precedent, *Serrano v. Priest* (1976) 18 Cal.3d, *Butt v. State* (1992) 4 Cal.4th and *O'Connell v. Superior Court* (2006) 141 Cal.App.4th, provides all California public school students with a fundamental right to basic equity of educational opportunity. Furthermore, Education Code section 44955 allows exemptions to seniority-based layoffs for the purposes of maintaining or achieving compliance with constitutional requirements related to equal protection of the laws.

California's lowest-achieving schools are five times as likely to have an underprepared teacher as students in the highest-achieving schools. The practical impact of having so many new teachers in a seniority-based system was brought to light in a recent lawsuit. The ACLU brought a civil rights lawsuit, *Reed v. State of California*, based on the disproportionate impact seniority-based layoffs have on high-poverty schools with children of color. The Los Angeles Superior Court recently granted an injunction prohibiting three schools in the Los Angeles Unified School District from laying off teachers solely based on seniority.

The purpose of these regulations is to affirm that a local educational agency (LEA) may not conduct a reduction in force based solely on seniority if this action violates a student's right to basic equity of educational opportunity. And to assist LEAs comply with this Constitutional requirement, the regulations identify examples of the circumstances for which it is appropriate for an LEA to deviate from seniority-based layoffs.

## DISCLOSURES REGARDING THE PROPOSED REGULATION

*The SBE has made the following initial determinations:*

Mandate on local agencies or school districts: Unknown

Cost or savings to state agencies: Unknown

Costs to any local agencies or school districts for which reimbursement would be required pursuant to Part 7 (commencing with section 17500) of division 4 of the Government Code: None

Other non-discretionary cost or savings imposed on local educational agencies: None

Cost or savings in federal funding to the state: None

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None

Cost impacts on a representative private person or businesses: The SBE is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Adoption of these regulations will not 1) create or eliminate jobs within California; 2) create new businesses or eliminate existing businesses within California; or 3) affect the expansion of businesses currently doing business within California.

Effect on housing costs: None

Effect on small businesses: The proposed amendments to the regulations do not affect small businesses because the regulations apply only to school districts and not to business practices.

## CONSIDERATION OF ALTERNATIVES

The SBE must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the SBE, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action.

The SBE invites interested persons to present statements or arguments with respect to alternatives to the



proposed regulations at the scheduled hearing or during the written comment period.

#### CONTACT PERSONS

Inquiries concerning the content of this regulation may be directed to:

Jennifer Johnson, Education Policy Consultant  
California State Board of Education  
1430 N Street, Room 5111  
Sacramento, CA 95814-5901  
Telephone: 916-319-0827

Inquiries concerning the regulatory process may be directed to the Regulations Coordinator or Regulations Analyst at 916-319-0860.

#### INITIAL STATEMENT OF REASONS AND INFORMATION

The SBE has prepared an initial statement of reasons for the proposed regulation and has available all the information upon which the proposal is based.

#### TEXT OF PROPOSED REGULATION AND CORRESPONDING DOCUMENTS

Copies of the exact language of the proposed regulation and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Regulations Coordinator. These documents may also be viewed and downloaded from the CDE's Web site at <http://www.cde.ca.gov/re/lr/rr>.

#### AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the Regulations Coordinator.

You may obtain a copy of the final statement of reasons, once it has been finalized, by making a written request to the Regulations Coordinator.

#### REASONABLE ACCOMMODATION FOR ANY INDIVIDUAL WITH A DISABILITY

Pursuant to the *Rehabilitation Act of 1973*, the *Americans with Disabilities Act of 1990*, and the *Unruh Civil Rights Act*, any individual with a disability who requires

reasonable accommodation to attend or participate in a public hearing on proposed regulations, may request assistance by contacting the SBE Office, 1430 N Street, Sacramento, CA, 95814-5901; telephone, 916-319-0827. It is recommended that assistance be requested at least two weeks prior to the hearing.

### TITLE 5. BOARD OF EDUCATION

#### NOTICE OF PROPOSED RULEMAKING

#### AMENDMENTS TO THE CALIFORNIA CODE OF REGULATIONS, TITLE 5 REGARDING CHARTER RENEWAL AND APPEALS

[Notice Published November 26, 2010]

**NOTICE IS HEREBY GIVEN** that the State Board of Education (SBE) proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

#### PUBLIC HEARING

California Department of Education (CDE) staff, on behalf of the SBE, will hold a public hearing at 9:00 a.m. January 11, 2011 at 1430 N Street, Room 1801, Sacramento, California. The room is wheelchair accessible. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The SBE requests, but does not require, that persons who make oral comments at the hearing also submit a written summary of their statements. No oral statements will be accepted subsequent to this public hearing.

#### WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to:

Debra Thacker, Regulations Coordinator  
Administrative Support and Regulations Adoption  
California Department of Education  
1430 N Street, Room 5319  
Sacramento, CA 95814

Comments may also be submitted by facsimile (FAX) at 916-319-0155 or by e-mail to [regcomments@cde.ca.gov](mailto:regcomments@cde.ca.gov). Comments must be received by the Regulations Coordinator by 5:00 p.m. on January 11, 2011. All written comments received by CDE staff during the

public comment period are subject to disclosure under the Public Records Act.

#### AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the public hearing and considering all timely and relevant comments received, the SBE may adopt the proposed regulations substantially as described in this Notice or may modify the proposed regulations if the modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified regulation will be available for 15 days prior to its adoption from the Regulations Coordinator and will be mailed to those persons who submit written comments related to this regulation, or who provide oral testimony at the public hearing, or who have requested notification of any changes to the proposal.

#### AUTHORITY AND REFERENCE

Authority: Sections 33031, 42606, 47605, and 52124.3, Education Code.

Reference: Sections 42605, 42606, 47605, 47607, and 47607.5, Education Code.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

California Education Code sections 47607(a) and 47607(b) provide the criteria for renewal of a school's charter by a chartering authority. Education Code section 47607.5(j)(1) provides the process by which a school may appeal a non-renewal decision to the county board of education and/or the SBE.

Through this rulemaking process, the SBE proposes to amend the *California Code of Regulations*, title 5, by adding sections 11966.4, 11966.5, 11966.6, and 11966.7 and amending Section 11967.5.1. The proposed regulations clarify and make specific the provisions of Education Code sections 47605, 47607, and 47607.5 regarding the criteria, process and timelines for renewing a school's charter, and the appeals process up to and including an appeal to the SBE.

Proposed section 11966.4 includes three new provisions that are intended to:

- Detail the information that a petition for renewal must include to be considered complete.

- Set forth the criteria a governing board of a school district must use in evaluating a charter school's petition for renewal.
- Identify the time period in which a governing board of a school district as the chartering authority must act on a petition for renewal before the petition is considered approved.

Proposed section 11966.5 includes four provisions that are intended to:

- Specify the time period a charter school has to submit a petition for renewal to the county board of education after the petition is denied by the governing board of the school district.
- Detail the information that a petition for renewal to the county board of education must include to be considered complete.
- Specify the grounds on which the county board of education may deny a petition for renewal.
- Identify the time period in which the county board of education has to act on an appeal before the charter school can submit a petition for renewal to the SBE due to inaction by the county board of education.

Proposed section 11966.6 includes four provisions that are intended to:

- Specify the time period a charter school has to submit a petition for renewal to the SBE after it is denied by the county board of education or after which the county board of education has taken no action on the petition.
- Detail the information that a petition for renewal to the SBE must include to be considered complete.
- Specify the time period by which the SBE shall consider an action item to grant or deny the petition for renewal.
- Identify the grounds on which the SBE may deny a petition for renewal.

Proposed section 11966.7 includes a provision that is intended to:

- Detail a charter school's eligibility to receive class size reduction funds when a school is not renewed by its chartering authority but is renewed on appeal by the county office of education or the SBE and when a charter school initially approved by the SBE on appeal is subsequently renewed by the district that previously denied the charter.

Section 11967.5.1(b)(3) is added to identify "an unsound educational program" as not meeting the standards for renewal pursuant to Education Code section 47607(b) or not meeting the measurable pupil outcomes described in its charter.

## DISCLOSURES REGARDING THE PROPOSED REGULATION

*The SBE has made the following initial determinations:*

Mandate on local agencies or school districts: None

Cost or savings to state agencies: Unknown

Costs to any local agencies or school districts for which reimbursement would be required pursuant to Part 7 (commencing with section 17500) of division 4 of the Government Code: None

Other non-discretionary cost or savings imposed on local educational agencies: None

Cost or savings in federal funding to the state: None

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None

Cost impacts on a representative private person or businesses: The SBE is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Adoption of these regulations will not 1) create or eliminate jobs within California; 2) create new businesses or eliminate existing businesses within California; or 3) affect the expansion of businesses currently doing business within California.

Effect on housing costs: None

Effect on small businesses: The proposed regulations would not have a significant adverse economic impact on any business because they relate only to charter schools, school districts, and the CDE, and not to small business practices.

## CONSIDERATION OF ALTERNATIVES

The SBE must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the SBE, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action.

The SBE invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

## CONTACT PERSONS

Inquiries concerning the content of this regulation may be directed to:

Michelle Ruskofsky, Education Administrator  
Charter Schools Division  
California Department of Education  
1430 N Street, Room 5401  
Sacramento, CA 95814  
Telephone: 916-322-6029

Inquiries concerning the regulatory process may be directed to the Regulations Coordinator at 916-319-0860.

## INITIAL STATEMENT OF REASONS AND INFORMATION

The SBE has prepared an initial statement of reasons for the proposed regulation and has available all the information upon which the proposal is based.

## TEXT OF PROPOSED REGULATION AND CORRESPONDING DOCUMENTS

Copies of the exact language of the proposed regulation and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Regulations Coordinator. These documents may also be viewed and downloaded from the CDE's Web site at <http://www.cde.ca.gov/re/lr/rr>.

## AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the Regulations Coordinator.

You may obtain a copy of the final statement of reasons, once it has been finalized, by making a written request to the Regulations Coordinator.

## REASONABLE ACCOMMODATION FOR ANY INDIVIDUAL WITH A DISABILITY

Pursuant to the *Rehabilitation Act of 1973*, the *Americans with Disabilities Act of 1990*, and the *Unruh Civil Rights Act*, any individual with a disability who requires reasonable accommodation to attend or participate in a public hearing on proposed regulations, may request assistance by contacting Michelle Ruskofsky, Charter Schools Division, 1430 N Street, Sacramento, CA, 95814; telephone, 916-322-6029. It is recommended that assistance be requested at least two weeks prior to the hearing.

## **TITLE 5. BOARD OF EDUCATION**

### **NOTICE OF PROPOSED RULEMAKING**

#### **AMENDMENT TO CALIFORNIA CODE OF REGULATIONS, TITLE 5 REGARDING INCLUSION OF TEACHER AND PRINCIPAL EVALUATION SYSTEM INFORMATION ON THE SCHOOL ACCOUNTABILITY REPORT CARD**

[Notice published November 26, 2010]

**NOTICE IS HEREBY GIVEN** that the State Board of Education (SBE) proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

#### **PUBLIC HEARING**

California Department of Education (CDE) staff, on behalf of the SBE, will hold a public hearing beginning at 1:30 p.m. on January 10, 2011, at 1430 N Street, Room 1801, Sacramento, California. The room is wheelchair accessible. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The SBE requests, but does not require, that persons who make oral comments at the hearing also submit a written summary of their statements. No oral statements will be accepted subsequent to this public hearing.

#### **WRITTEN COMMENT PERIOD**

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to:

Debra Thacker, Regulations Coordinator  
Administrative Support and Regulations Adoption  
Unit  
California Department of Education  
1430 N Street, Room 5319  
Sacramento, California 95814

Comments must be received by the Regulations Coordinator by 5:00 p.m. on January 10, 2011. All written comments received by CDE staff during the public comment period are subject to disclosure under the Public Records Act.

#### **AVAILABILITY OF CHANGED OR MODIFIED TEXT**

Following the public hearing and considering all timely and relevant comments received, the SBE may

adopt the proposed regulations substantially as described in this Notice or may modify the proposed regulations if the modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified regulation will be available for 15 days prior to its adoption from the Regulations Coordinator and will be mailed to those persons who submit written comments related to this regulation, or who provide oral testimony at the public hearing, or who have requested notification of any changes to the proposal.

#### **AUTHORITY AND REFERENCE**

Authority: Sections 33030 and 33031, Education Code.

Reference: Sections 12000, 33126 and 33126.1, Education Code; Section 14005, American Recovery and Reinvestment Act of 2009 (Public Law 111–5); and the notice of final requirements, definitions, and approval criteria for the State Fiscal Stabilization Fund program published in Volume 74 of Number 217 of the Federal Register on November 12, 2009.

#### **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

Education Code section 44660 requires that governing boards establish a uniform system of evaluation and assessment of the performance of all certificated personnel within each school district in the state. Education Code section 44662 requires the governing board of each school district to evaluate and assess certificated employee performance including: 1) the progress of pupils toward district-established standards of expected pupil achievement and state-adopted academic content standards; 2) instructional techniques and strategies used; 3) adherence to curricular objectives; and 4) the establishment and maintenance of a suitable learning environment.

American Recovery and Reinvestment Act (Public Law 111–5) established new State Fiscal Stabilization Funds (SFSF) reporting requirements. Under these requirements, states receiving SFSF must provide assurances that they will collect and report particular education data and information, which are tied to four provisions for educational reform, including “achieving equity in teacher distribution.” Under this reform provision, states and local educational agencies (LEAs) must sign an assurance that they will collect and report the following data and information on teacher and principal evaluation: 1) the systems used to evaluate the performance of teachers and principals and the use of results from those systems in decisions regarding teacher development, compensation, promotion, retention, and



removal; 2) whether the systems used to evaluate the performance of teachers and principals include student achievement outcomes or student growth data as an evaluation criterion; 3) if a district's teachers and principals receive performance ratings or levels through an evaluation system, the number and percentage of teachers and principals rated at each performance rating or level; and 4) whether the number and percentage of teachers rated at each performance rating or level are publicly reported for each school in the district. Education Code section 12000 designates the SBE as the state education agency responsible for administering federally-funded programs.

The purpose of these regulations is to ensure that the information on teacher and principal evaluation reported by each LEA pursuant to the American Recovery and Reinvestment Act of 2009 is made available to the public by specifying that this information be included in the School Accountability Report Card. (State Fiscal Stabilization Fund program published in Volume 74 of Number 217 of the Federal Register on November 12, 2009.)

#### DISCLOSURES REGARDING THE PROPOSED REGULATION

*The SBE has made the following initial determinations:*

Mandate on local agencies or school districts: Unknown

Cost or savings to state agencies: Unknown cost

Costs to any local agencies or school districts for which reimbursement would be required pursuant to Part 7 (commencing with section 17500) of division 4 of the Government Code: None

Other non-discretionary cost or savings imposed on local educational agencies: None

Cost or savings in federal funding to the state: None

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None

Cost impacts on a representative private person or businesses: The SBE is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Adoption of these regulations will not 1) create or eliminate jobs within California; 2) create new businesses or eliminate existing businesses within California; or 3) affect the expansion of businesses currently doing business within California.

Effect on housing costs: None

Effect on small businesses: The proposed amendments to the regulations do not affect small businesses

because the regulations apply only to school districts and not to business practices.

#### CONSIDERATION OF ALTERNATIVES

The SBE must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the SBE, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action.

The SBE invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

#### CONTACT PERSONS

Inquiries concerning the content of this regulation may be directed to:

Jennifer Johnson, Education Policy Consultant  
California State Board of Education  
1430 N Street, Room 5111  
Sacramento, CA 95814-5901  
Telephone: 916-319-0827

Inquiries concerning the regulatory process may be directed to the Regulations Coordinator or Donna Barr, Analyst, at 916-319-0860.

#### INITIAL STATEMENT OF REASONS AND INFORMATION

The SBE has prepared an initial statement of reasons for the proposed regulation and has available all the information upon which the proposal is based.

#### TEXT OF PROPOSED REGULATION AND CORRESPONDING DOCUMENTS

Copies of the exact language of the proposed regulation and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Regulations Coordinator. These documents may also be viewed and downloaded from the CDE's Web site at <http://www.cde.ca.gov/re/lr/rr>.

#### AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which

is available for public inspection by contacting the Regulations Coordinator.

You may obtain a copy of the final statement of reasons, once it has been finalized, by making a written request to the Regulations Coordinator.

#### **REASONABLE ACCOMMODATION FOR ANY INDIVIDUAL WITH A DISABILITY**

Pursuant to the *Rehabilitation Act of 1973*, the *Americans with Disabilities Act of 1990*, and the *Unruh Civil Rights Act*, any individual with a disability who requires reasonable accommodation to attend or participate in a public hearing on proposed regulations, may request assistance by contacting the SBE Office, 1430 N Street, Sacramento, CA, 95814-5901; telephone, 916-319-0827. It is recommended that assistance be requested at least two weeks prior to the hearing.

### **TITLE 10. CALIFORNIA FILM COMMISSION/CALIFORNIA FILM AND TELEVISION TAX CREDIT PROGRAM**

Title 10, Chapter 7.75, Sections 5500, 5501, 5505, 5506, 5507

#### **NOTICE OF PROPOSED RULEMAKING**

November 26, 2010

Notice is hereby given that the California Film Commission proposes to adopt the proposed regulations described below after considering all comments, objections and recommendations regarding the proposed action.

#### **PROPOSED REGULATORY ACTION**

The Office proposes to amend the sections 5500 through 5507 in Title 10 of the California Code of Regulations in order to implement, interpret and make specific Revenue and Taxation Code sections 17053.85 and 23685 relating to a film and television tax credit program.

No public hearing is scheduled; however, any interested person or his or her duly authorized representative may request a public hearing no later than fifteen (15) days prior to the close of the public comment period.

#### **WRITTEN COMMENT PERIOD**

Any interested person, or his or her authorized representative, may submit written comments relevant to the

proposed regulatory action to the Commission. Written comments will be accepted by the Commission until 5:00 p.m. on January 10, 2011. Submit comments to:

Name: Amy Lemisch

Address: California Film Commission,  
7080 Hollywood Boulevard,  
Hollywood, CA 90028

Email: amy.lemisch@film.ca.gov

#### **AUTHORITY AND REFERENCE**

The proposed regulation has been adopted under the authority of Government Code section 11152, and Revenue and Taxation Code sections 17053.85(e) and 23685(e) and in order to implement, interpret, and make specific Revenue and Taxation Code sections 17085.85 and 23685.

#### **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

The California Film Commission proposes to amend sections 5500, 5501, 5505, 5506, and 5507. The regulations provide a procedure for allocating tax credits to qualified taxpayers in the motion picture industry.

Revenue and Taxation Code sections 17053.85 and 23685 provide that the California Film Commission establish a procedure for applicants to file a written application for the allocation of the tax credit, establish criteria for allocating tax credits, determine and designate applicants who meet the requirements to apply for the tax credit, and issue the credit certificate to the qualified taxpayer upon completion of the qualified motion picture.

The California Film Commission promulgated regulations in 2009/10 and implemented the California Film and Television Tax Credit program in June 2010. The program which specifically targets productions that are most likely to leave the state to take advantage of incentives being offered in other states and countries is very successful. However, in administering the program for the past five months, both staff and applicants have identified areas that should be amended to either facilitate or clarify the process of acquiring the tax credit.

This regulation will also amend the California Film Commission forms, incorporated by reference, that are required to be submitted during the application and filming process.

Section 5500 provides definitions used in these regulations. Section 5500 is amended to add a definition of Hiatus. This term is used in these regulations and the practice is common in the filming industry.

Section 5501 provides for the application process for a tax credit allocation. Section 5501(c) provides for an

amended Application Form, CFC Form A (Rev. 10/20/2010), hereby incorporated by reference. This form has been amended to include a section on financing sources information, that was previously required on CFC Form B.

Section 5501(d)(5) repeals CFC Form B, Financing Sources Report. The supporting documentation in subsection (d)(5) is still required to be submitted with the application.

Section 5501(d)(7) repeals CFC Form C, Independent Film Declaration. The information on this form is proposed to be moved to the Application Form, CFC Form A. The repeal of the section will not have an effect on the regulated public.

Section 5501(h) is amended to add a requirement that if a production company implements a hiatus during the principal photography period, it may be no longer than 100 days.

Section 5505 provides the applicant with its ongoing responsibilities after being issued a tax credit allocation. Section 5505(a)(4) provides for an amended Fiscal Year-End Expenditure Report, Form K (Rev. 10/20/2010), hereby incorporated by reference.

Section 5506 provides for the process to attain the credit certificate after the Qualified Motion Picture is complete. This section is amended to delete the definition of a complete Qualified Motion Picture. The information is moved to a new subsection 5506(c).

Section 5506(a)(1) repeals the Request for Tax Credit Certificate, CFC Form J. The applicant will not be required to submit a separate form requesting this information. The information is proposed to be moved to the Expenditure Summary Report, CFC Form F.

Section 5506(a)(5) provides for an amended Expenditure Summary Report, CFC Form F, (Rev. 10/20/2010), hereby incorporated by reference. This section will also be renumbered to (a)(4).

Section 5506(a)(6) repeals the Employment Diversity Report, CFC Form H, which was incorporated by reference. This information is proposed to be moved to the Expenditure Summary Report, CFC Form F.

Section 5506(a)(7) is amended to require the CPA wanting to perform the Agreed Upon Procedures to attend a CPA orientation meeting held by the CFC. The CFC will hold a CPA orientation meeting annually. This section will also amend the revision date for the Agreed Upon Procedures, date 10/20/2010. The amended Agreed Upon Procedures will provide a sample format that the CPA is required to use when submitting the information required by the Agreed Upon Procedures Report. This sample format will not require the CPA to use any specific programs or applications. It is only required for consistent presentation of data.

Section 5506(a)(9) is editorially amended to renumber as (a)(7) and to add a requirement that documenta-

tion verifying the total dollar amount of work performed within California be submitted for any post sound company contract work. This section previously only required documentation from each visual effects, title and or digital effects work contracted by the production company.

A new section 5506(c) is proposed. This subsection will define when a Qualified Motion Picture is complete. This language is moved from 5506(a) and will have no effect on the regulated public.

Section 5506(c) is amended to clarify that the Director shall determine if the materials submitted by the applicant are sufficient to meet the requirements of these regulations. The Director also may reject insufficient documentation not in compliance. This amendment will specifically provide for disapproval of the tax credit certificate because of insufficient documentation. This section is also renumbered to (d).

Section 5506(d) is amended to provide that upon rejection of insufficient documentation, the applicant will receive a notice of disapproval. This section is renumbered to (e).

Section 5507 provides for on screen credit and promotional requirements. Subsection (a)(1) is amended to require the on-screen acknowledgement to also include the "State of California". It previously only required the California Film Commission.

A new subsection (a)(4) is added to require the production company to add the California Film Commission official logo in the end credits.

#### California Film and Television Tax Credit Program Application Form, CFC Form A

The application form has been amended as follows: Section 1, company information, is amended to specify that the program requires "Today's" date, instead of date. The section requiring the applicant entity or Individual has been amended to require the "Title" of the Individual if applicable. The request for the company name has been amended to require the production company name and the address has been amended to require the "Applicant's" address.

Section 2, Production Information, Section A. has been amended to apply to Primary Production Company or the "Studio" Representative. A box has been added that allows the user to skip to the next section, if the information is the same as in Section 1. This section also now requires the "Company Name", specifies the "Company" address, instead of just address and also asked for the "Country".

A new Section is proposed to be added to Section 2. Subsection M. will request information on the CPA firm and CPA that will complete the Agreed Upon Procedures Report. There is a box that can be checked that indicates that it is "To be Determined".

Section 3. Eligibility Determination, is amended to add a new subsection B. Independent Film Declaration. This information was moved from CFC Form C, rev 9/01/2009. This is only required to be completed by an independent film and requires the company owners and the percentages of ownership. There are no new requirements as it is proposed in this section.

Subsection D. Principal Photography Days, is amended to add a new section that requests information on the estimated total California 2<sup>nd</sup> Unit, stunt and/or VFX days.

Section 4. Financing Sources, is a new section on this form. This information was moved from CFC Form B, Financing Sources Report, new 6/1/2009. The section requires information on the financing sources, name of funds, the amount and the percentage of the total financing. There are no new requirements as proposed in this section.

Section 5. Production Statistics, is a new section on this form and new to the program. This section will require the applicant to estimate the numbers of cast members, base crew members, extras and stand-ins. It will also ask if 75% of total production budget will be spent in California. This amendment will require the production company to provide additional information about the production when submitting an application.

Section 6. Estimated Tax Credit Allocation, is amended to add two boxes, that are for CFC Use Only. This will not have any effect on the regulated public.

Section 7. Required Materials Checklist, is amended to add a hard copy of the Application Form, CFC Form A. The One-line Shooting Schedule that is required to be included with the application, is amended to also specify that it must include "scene descriptions".

#### Financing Sources Report, CFC Form B

This form will identify the financing sources for the production. This form is repealed and all the requirements are moved to the Application Form, CFC Form A.

#### Independent Film Declaration, CFC Form C

This form is required if the Qualified Motion Picture meets the criteria for an independent film. This form is repealed and all the requirements are moved to the Application Form, CFC Form A.

#### Expenditure Summary Report, CFC Form F

This form is used to gather final expenditure information and statistics upon completion of a Qualified Motion Picture. The form has been reformatted with new header print and type. A CFC Use Only box has been added. These changes will not affect the regulated public.

Section 1. Applicant Information, is amended to specify that the program requires "Today's" date, instead of date. The section requiring the "Applicant" is

amended to require "Applicant" entity or "Individual/Title" if applicable. The address has been amended to require the "Applicant's" address.

This section will also require the Taxpayer ID#, Seller's Permit# and Copyright Registration#.

A new Section 2. Production Information is added to this form. This section will require the primary production company or Studio representative's Name, Title, Company Name, Company Address, City, State, Zip, Country, Email, Phone, Cell phone and fax. A box has been added that allows the user to skip to the next section, if the information is the same as in Section 1. This section will also require Payroll Service information, Distributor Information, and CPA Information.

Section 3. Eligibility Determination is amended to request a "Wrap Date". It will also require additional information on the principal photography days, including days specifically in Los Angeles, days outside 30-mile studio zone, total percentage of California principal photography days and total California 2<sup>nd</sup> Unit, stunt and/or VFX days. It also will require the production company to identify the counties outside the studio zone where filming occurred, and any locations outside of California.

Section 4. Production Statistics, is amended to require the applicant to provide the numbers of cast members, base crew members, and vendors. It also amends the section requiring the total number of California resident and non-residents. The amendment will specify both qualified and non-qualified residents and non-residents are to be included in the totals. This amendment will require the production company to gather updated and additional information about the production before submitting this form, which is necessary to obtain the Tax Credit Certificate.

This section also amends the California Taxable Spend/Taxes Withheld information required. The production company will be required to submit qualified and non-qualified expenditures on goods and services. It will also clarify that they should report the total state income taxes withheld for both qualified and non-qualified wages.

A new subsection will require the production company to submit Total Production Budget which is the total California Expenditures, qualified and non-qualified.

A new subsection D, Employment Diversity Information, moves the requirements from CFC Form H, Employment Diversity Report, new 6/1/2009, to this section. There are no new requirements.

Section 5. Tax Credit Allocation, is amended to add a third column that sums the numbers given in this table relating to Qualified Expenditures. This will not require additional information to be submitted.

In the Tax Credit Allocation Due Box, a Note has been added relating to the qualified expenditures per-



centages allowed by statute. This does not have a regulatory effect.

A new line was added requesting the amount of the credit allocation letter and the Final Credit Allocation, which is the lesser of the qualified spend or the original amount allowed on the credit allocation letter.

Section 6. Required Materials Checklist is added to this form. This section lists all documents that are required to be submitted pursuant to the regulations.

A new provision states that all electronic files must be submitted on a CD or USB flashdrive along with paper documentation. This is not a new requirement and is added for clarification.

Section 7. Signature, is amended to require the person signing the form, to sign under penalty of perjury.

#### Employment Diversity Report, CFC Form H

The CFC is required by statute to report on the diversity of the workforce in the Qualified Motion Pictures produced as a result of this program. This form will be repealed and all provisions moved to CFC Form F, Expenditures Summary Report.

#### Fiscal Year End Expenditure Report, CFC Form K

Some of the information required on this form is identical to the Expenditure Summary Report, CFC Form F. The applicable sections have been amended to be consistent with that form.

The form has been reformatted with new header print and type. A CFC Use Only box has been added. These changes will not affect the regulated public.

Section 1. Applicant Information, is amended to specify that the program requires "Today's" date, instead of date. The section requiring the "Applicant" is amended to require "Applicant" entity or "Individual/Title" if applicable. The Company Name is amended to request the "Production" Company Name.

Section 2. Labor Statistics for in-State Work, is amended to require the applicant to provide the numbers of cast members, base crew members, and vendors. It also amends the section requiring the total number of California residents and non-residents. The amendment will specify both qualified and non-qualified residents and non-residents are to be included in the totals. This amendment will require the production company to gather additional information about the production before submitting this form.

Section 3. California Taxable Spend, is amended to add to the title "Taxes Withheld". The production company will be required to submit qualified and non-qualified expenditures on goods and services. It will also clarify that they should report the total state income taxes withheld for both qualified and non-qualified wages.

The signature box is amended to require the person signing the form, to sign under penalty of perjury.

#### Agreed Upon Procedures (AUP), dated October 20, 2010

The AUP is a technical tool for the CPA to determine what is required and expected in the Agreed Upon Procedures Report and is required to be submitted by the Qualified Taxpayer in order to be issued a Tax Credit Certificate. The AUP has been amended to be consistent with all the changes to form requirements in these regulations.

The AUP General Section was amended to state that the CPA must submit with the report a copy of their CPA license or privilege permit number and contact information.

#### Section IV. Agreed Upon Procedures

Eligibility. This section is amended to require the preparer to identify litigation or insurance claims and the impact on the total production expenditures.

Expenditures. Section g. is amended to provide for procedures for qualified items which required full or partial payment made prior to the issuance of the Credit Allocation Letter.

A new section (i) requires that the preparer confirm the expenditure is pro-rated to reflect any usage out of the state.

A new section (j) requires that the preparer confirm that insurance deductibles were not included.

Section 3. is amended to clarify that the preparer is to obtain a fixed asset listing and list the type of assets included. This section also provides for detail on assets over \$10,000 and the procedures to follow.

Section 7 is amended to require the preparer to adjust the Qualified California Production Expenditures for known errors.

#### Payroll.

Section 1 is amended to provide more specific instructions to the preparer on obtaining detailed payroll reports, including requiring them to compare and reconcile the payroll reports.

Section 2 is amended to specify that the CPA must select a sampling of qualified wages in the Bible and reconcile the amount for the individual with the payroll report.

New sections (f), (g), and (h) specify regulatory parameters which the CPA must confirm during sample testing.

Section 3 is amended to specify those individuals who receive both an above the line and a below the line credit and the amount of the below the line salary that is considered qualified.

Sections 4 and 5 are amended to specify that the production expenditures must be adjusted for known errors.

New section 5(c) is added and specifies that a listing of exceptions be included.

Related Parties and Other Affiliations.

This section was amended to clarify the details on obtaining a schedule listing of all related party transactions from the production company. It will also require the preparer to select samples of related party transactions for testing. The preparer will also need to note any transaction not at an arms length standard and provide a listing of all related party transactions.

Exhibit A is amended to include a Final Credit Amount, which is the Tax Credit Allocation based on all the findings. A non-substantive change was made for reference under the Eligible Tax Credit, to show the percentages allowed by statute.

An Appendix B, Sample Format for the Agreed Upon Procedures Report is proposed to be added to the AUP. This format is identical to the requirements in the Agreed Upon Procedures, except for requiring the information on the production and the CPA in the beginning of the report. It will also require the CPA to provide a statement establishing the intent and procedures followed to complete this report.

**COST ESTIMATES OF PROPOSED ACTION**

The California Film Commission has made the following determinations:

- Mandate on local agencies and school districts: None.
- Cost or savings to any state agency: None.
- Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None.
- Other nondiscretionary cost or savings imposed on local agencies: None.
- Cost or savings in federal funding to the state: None.
- Significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: None.
- Potential cost impact on representative person or businesses: The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- Significant effect on housing costs: None.

**EFFECT ON SMALL BUSINESS**

The California Film Commission has determined that the proposed regulations will not directly affect small business. The businesses that are complying with these

regulations are film production companies and are not small businesses.

**ASSESSMENT REGARDING EFFECT  
ON JOBS/BUSINESS**

Adoption of these regulations will (1) facilitate the creation of jobs within California; (2) will facilitate the creation of businesses within California, (3) will facilitate the expansion of businesses currently doing business within California.

**REASONABLE ALTERNATIVES CONSIDERED**

The California Film Commission must determine that no reasonable alternative considered by the Commission or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

**CONTACT PERSON**

Inquiries concerning the proposed action may be directed to:

Name: Terri Toohey  
Email: [terri.toohey@bth.ca.gov](mailto:terri.toohey@bth.ca.gov)

The backup contact person for these inquiries is:

Name: Nancy Rae Stone  
Phone No.: 323-860-2960

Questions on the substance of the proposed regulations may be directed to:

Name: Amy Lemisch  
Phone No.: 323-860-2960

**AVAILABILITY OF CHANGED  
OR MODIFIED TEXT**

After the close of the forty-five (45) day public comment period, the Commission may adopt the proposed regulation. As a result of public comments, either oral or written, that are received by the Agency regarding this proposal, the Commission may determine that changes to the proposed regulation are appropriate. If the Commission makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Commission adopts the regulations as revised. The Commission will provide notification of any such modifications to all persons whose comments were received during the public comment period, all persons whose

comments (written or oral) were received at the public hearing (if one is held), and all persons who requested notice of such modifications. Otherwise, please send requests for copies of any modified regulations to the attention of Terri Toohey at the above email address. The Commission will accept written comments on the modified regulations for 15 days after the date on which they are made available.

#### AVAILABILITY OF INITIAL STATEMENT OF REASONS, RULEMAKING FILE AND EXPRESS TERMS OF THE PROPOSED REGULATIONS

The Commission has established a rulemaking file for this regulatory action, which contains those items required by law. The file is available for inspection at the California Film Commission, 7080 Hollywood Boulevard, Suite 900, Hollywood, California during normal business working hours (9 a.m.–5 p.m.). Please contact Amy Lemisch at the above email address to arrange a date and time to inspect the files. As of the date this Notice is published in the Notice Register, the rulemaking file consists of this Notice, the Initial Statement of Reasons and the proposed text of the regulations. Copies of these items are available, upon request, from the Contact Person designated in this Notice.

#### AVAILABILITY OF FINAL STATEMENT OF REASONS

The Commission is required to prepare a Final Statement of Reasons. Once the Commission has prepared a Final Statement of Reasons, a copy will be made available to anyone who requests a copy. Requests for copies should be addressed to the Contact Person identified in this Notice.

#### OFFICE INTERNET WEBSITE

The Commission maintains an Internet website for the electronic publication and distribution of written material. Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout can be accessed through our website at: [www.film.ca.gov](http://www.film.ca.gov).

### TITLE 15. DEPARTMENT OF CORRECTIONS AND REHABILITATION

#### NOTICE OF PROPOSED REGULATIONS

California Code of Regulations  
Title 15, Crime Prevention and Corrections  
Department of Corrections and Rehabilitation

**NOTICE IS HEREBY GIVEN** that the Secretary of the California Department of Corrections and Rehabi-

litation (CDCR) pursuant to the authority granted by Government Code Section 12838.5 and Penal Code (PC) Section 5055, and rulemaking authority granted by PC Section 5058, in order to implement, interpret and make specific PC Section 5054, proposes to amend Sections 3000, 3045, 3123, 3134, 3250, 3269, 3274, 3383, and 3482 in the California Code of Regulations (CCR), Title 15 concerning the definition for a Lock-down or Modified Program.

#### PUBLIC HEARING

Date and

Time: January 20, 2011 — 9:00 a.m. to 10:00 a.m.

Place: Department of Corrections and  
Rehabilitation  
Kern/Colorado Room  
1515 S Street — North Building  
Sacramento, CA 95811

Purpose: To receive comments about this action.

#### PUBLIC COMMENT PERIOD

The public comment period will close January 20, 2011 at 5:00 p.m. Any person may submit public comments in writing (by mail, by fax, or by e-mail) regarding the proposed changes. To be considered by the Department, comments must be submitted to the CDCR, Regulation and Policy Management Branch, P.O. Box 942883, Sacramento, CA 94283–0001; by fax at (916) 324–6075; e-mail at [RPMB@cdcr.ca.gov](mailto:RPMB@cdcr.ca.gov) before the close of the comment period.

#### CONTACT PERSON

Please direct any inquiries regarding this action to:

**Timothy M. Lockwood, Chief**  
**Regulation and Policy Management Branch**  
**Department of Corrections and Rehabilitation**  
**P.O. Box 942883, Sacramento, CA 94283–0001**  
**Telephone (916) 445–2269**

In the event the contact person is unavailable, inquiries should be directed to the following back-up person:

**Alex Alanis, Correctional Lieutenant**

**Regulation and Policy Management Branch**  
**Telephone (916) 445–2227**

Questions regarding the substance of the proposed regulatory action should be directed to:

**Jennifer Barreto**  
**Division of Adult Institutions**  
**Telephone (916) 323–4223**

## LOCAL MANDATES

This action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement of costs or savings pursuant to Government Code Sections 17500–17630.

## FISCAL IMPACT STATEMENT

- Cost or savings to any state agency: *None*
- Other nondiscretionary cost or savings imposed on local agencies: *None*
- Cost or savings in federal funding to the state: *None*

## EFFECT ON HOUSING COSTS

The Department has made an initial determination that the proposed action will have no significant effect on housing costs.

## COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

## SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESS

The Department has initially determined that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

## EFFECT ON SMALL BUSINESSES

The Department has determined that the proposed regulations may not affect small businesses. It is determined that this action has no significant adverse economic impact on small business because they are not affected by the internal management of state prisons.

## ASSESSMENTS OF EFFECTS ON JOB AND/OR BUSINESS CREATION, ELIMINATION OR EXPANSION

The Department has determined that the proposed regulation will have no effect on the creation of new, or the elimination of existing jobs or businesses within

California, or affect the expansion of businesses currently doing business in California.

## CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative considered by the Department, or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons, than the proposed regulatory action. Interested persons are accordingly invited to present statements or arguments with respect to any alternatives to the changes proposed at the scheduled hearing or during the written comment period.

## AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS

The Department has prepared, and will make available, the text and the Initial Statement of Reasons (ISOR) of the proposed regulations. The rulemaking file for this regulatory action, which contains those items and all information on which the proposal is based (i.e., rulemaking file) is available to the public upon request directed to the Department's contact person. The proposed text, ISOR, and Notice of Proposed Action will also be made available on the Department's website <http://www.cdcr.ca.gov>.

## AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Following its preparation, a copy of the Final Statement of Reasons may be obtained from the Department's contact person.

## AVAILABILITY OF CHANGES TO PROPOSED TEXT

After considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this Notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Requests for copies of any modified regulation text should be directed to the contact person indicated in this Notice. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.



## INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Penal Code (PC) Section 5000 provides that commencing July 1, 2005, any reference to the Department of Corrections in this or any code, refers to the CDCR, Division of Adult Operations.

PC Section 5050 provides that commencing July 1, 2005, any reference to the Director of Corrections, in this or any other code, refers to the Secretary of the CDCR. As of that date, the office of the Director of Corrections is abolished.

PC Section 5054 provides that commencing July 1, 2005, the supervision, management, and control of the state prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein are vested in the Secretary of the CDCR.

PC Section 5058 authorizes the Director to prescribe and amend regulations for the administration of prisons. This action provides the following:

- Amends the terms “Lockdown” and “Modified Program” into the California Code of Regulations, Title 15, Division 3, sections 3000, 3045, 3123, 3134, 3150, 3569, 3274, 3383, and 3482.
- Clarifies the current definition of Lockdown and distinguishes it from the newly defined term Modified Program.
- Pairs the term Lockdown with Modified Program in the identified sections of the California Code of Regulations, Title 15, which gives the institutions the latitude to impart the proper operational status of the respective facilities.

## TITLE 16. CONTRACTORS STATE LICENSE BOARD

### NOTICE OF PROPOSED CHANGES IN THE REGULATIONS

NOTICE IS HEREBY GIVEN that the Contractors State License Board (Board or CSLB) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the Contractors State License Board, 9821 Business Park Drive, Sacramento, California 95827, at 1:00 p.m. on Monday, January 10, 2011. Written comments must be received by the Board at its office at the above address not later than January 10, 2011 at 5:00 p.m. or at the hearing. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposal substantially as de-

scribed below or may modify such proposal if such modification is sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in the Notice as the contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

### **Authority and Reference Citations**

Pursuant to the authority vested by Section 7008 of the Business and Professions (B&P) Code, and to implement, interpret, or make specific Sections 7000.6, 7068, 7068.1, 7071.17, 7111, 7124.6, 7151, 7151.2, 7159, and 7159.5 of said Code; Sections 1427 and 1474 of the Civil Code; and Sections 995.020, 995.310, and 995.360 of the Code of Civil Procedure, the Contractors State License Board is considering changes to Division 8 of Title 16 of the California Code of Regulations (CCR) as follows:

## INFORMATIVE DIGEST

### **Adopt Section 858. Blanket Performance and Payment Bond Defined**

B&P Code Section 7008 authorizes the Board to adopt rules and regulations, in accordance with the Administrative Procedure Act, that are reasonably necessary to carry out the provisions of the chapter of the B&P Code. Section 7151 defines “home improvement” and “home improvement goods and services.” Section 7159 sets forth the requirements for home improvement contracts, notably including a limitation on contractors for a down payment that is not to exceed 10% of the contract price or \$1,000, whichever is less, and a requirement to include a Mechanics’ Lien Warning in the contract language. Furthermore, Section 7159 requires that a contract for home improvements contain a schedule of progress payments for the work that is to be accomplished in each phase of the project. Each progress payment must not exceed the value of the amount of work (labor and materials) that has been incorporated into each phase. Section 7159.5 further delineates the requirements for home improvement contracts, including the provision that contractors who file a performance and payment bond or a “bond equivalent. . . approved by the registrar” shall be exempt from certain provisions of the home improvement contract requirements relating to down payments, progress payments, and the Mechanics’ Lien Warning for home improvement work. Civil Code Section 1427 defines an “obligation.”

There is no existing CSLB regulation that defines a blanket performance and payment bond.

This proposal would adopt the regulation in order to:

- Define a “blanket performance and payment bond” (hereafter referred to as “blanket bond”);
- Identify the fact that, pursuant to B&P Code Section 7159.5, blanket bonds are subject to approval by the Registrar; and
- Provide notice that the requirements for Registrar approval of blanket bonds are set forth in regulation.

**Adopt Section 858.1. Blanket Performance and Payment Bond Requirements**

B&P Code Section 7008 authorizes the Board to adopt rules and regulations, in accordance with the Administrative Procedure Act, that are reasonably necessary to carry out the provisions of the chapter of the B&P Code. Section 7151.2 defines a “home improvement contract.” Section 7159 sets forth the requirements for home improvement contracts, notably including a limitation on contractors for a down payment that is not to exceed 10% of the contract price or \$1,000, whichever is less, and a requirement to include a Mechanics’ Lien Warning in the contract language. Furthermore, Section 7159 requires that a contract for home improvements contain a schedule of progress payments for the work that is to be accomplished in each phase of the project. Each progress payment must not exceed the value of the amount of work (labor and materials) that has been incorporated into each phase. Section 7159.5 further delineates the requirements for home improvement contracts, including the provision that contractors who file a performance and payment bond or a “bond equivalent. . . approved by the registrar” shall be exempt from certain provisions of the home improvement contract requirements relating to down payments, progress payments, and the Mechanics’ Lien Warning for home improvement work. Civil Code Section 1427 defines an “obligation.” Section 1474 sets forth criteria for determining how liability for an obligation may be extinguished. Code of Civil Procedure Section 995.020 sets forth criteria for the applicability of the Bond and Undertaking Law. Section 996.310 et seq. establishes requirements for sureties on a bond. Section 996.360 sets forth conditions for return of a bond.

There is no existing CSLB regulation that sets forth blanket bond requirements.

This proposal would adopt the regulation in order to:

- Specify that to obtain Registrar approval, a blanket bond must meet specific requirements relative to the portion of a licensee’s business that is subject to B&P Code Section 7159 (home improvement contracts);
- Require the dollar amount of a blanket bond to be not less than 100% of a licensee’s home

improvement contract obligations, thereby establishing the “100% rule;”

- Provide criteria under which the dollar amount of the blanket bond may be capped at specified levels if the licensee is required to report annually to the United States Securities and Exchange Commission (U.S. SEC);
- Provide the standard form with which the blanket bond must conform; and
- Specify the deadline by which a licensee must increase an existing blanket bond if it does not comply with the specified minimum set by the regulation.

**Adopt Section 858.2. Application for Approval of Blanket Performance and Payment Bond**

B&P Code Section 7008 authorizes the Board to adopt rules and regulations, in accordance with the Administrative Procedure Act, that are reasonably necessary to carry out the provisions of the chapter of the B&P Code. Section 7068 establishes the qualification requirements for contractors. Section 7068.1 further delineates the qualification requirements, particularly as they relate to the qualifying individual. Section 7124.6 establishes provisions for public access to complaints against licensees, including disclaimers and limitations of disclosure. Section 7159 sets forth the requirements for home improvement contracts, notably including a limitation on contractors for a down payment that is not to exceed 10% of the contract price or \$1,000, whichever is less, and a requirement to include a Mechanics’ Lien Warning in the contract language. Furthermore, Section 7159 requires that a contract for home improvements contain a schedule of progress payments for the work that is to be accomplished in each phase of the project. Each progress payment must not exceed the value of the amount of work (labor and materials) that has been incorporated into each phase. Section 7159.5 further delineates the requirements for home improvement contracts, including the provision that contractors who file a performance and payment bond or a “bond equivalent. . . approved by the registrar” shall be exempt from certain provisions of the home improvement contract requirements relating to down payments, progress payments, and the Mechanics’ Lien Warning for home improvement work.

There is no existing CSLB regulation that sets forth application procedures for the blanket bond approval.

This proposal would adopt the regulation in order to:

- Outline the process for making application for approval of a blanket bond;
- Specify the information to be included in the application;

- Establish the eligibility qualifications, including the financial reporting requirements; and
- Create a standard certification form to be used by the licensee's qualifier in the application and biennial submission processes.

**Adopt Section 858.3. Minimum Standards for Approval of Blanket Performance and Payment Bond Approval — Cause for Denial**

B&P Code Section 7008 authorizes the Board to adopt rules and regulations, in accordance with the Administrative Procedure Act, that are reasonably necessary to carry out the provisions of the chapter of the B&P Code. Section 7159.5 further delineates the requirements for home improvement contracts, including the provision that contractors who file a performance and payment bond or a "bond equivalent. . .approved by the registrar" shall be exempt from certain provisions of the home improvement contract requirements relating to down payments, progress payments, and the Mechanics' Lien Warning for home improvement work.

There is no existing CSLB regulation that sets forth minimum standards or causes for denial or rescission of blanket bond approval.

This proposal would adopt the regulation in order to:

- Specify the minimum standards that a licensee must demonstrate relative to the financial health of his or her business (utilizing the current and quick ratios as the baseline metrics) in order to qualify for approval of a blanket bond; and
- Provide the Registrar with the authority to deny blanket bond approval if the information in the required financial reports indicates that the licensee's business will not be able to meet current liabilities.

**Adopt Section 858.4. Blanket Performance and Payment Bond Biennial Certification and Financial Reporting Requirements**

B&P Code Section 7008 authorizes the Board to adopt rules and regulations, in accordance with the Administrative Procedure Act, that are reasonably necessary to carry out the provisions of the chapter of the B&P Code. Section 7068 establishes the qualification requirements for contractors. Section 7068.1 further delineates the qualification requirements, particularly as they relate to the qualifying individual. Section 7159.5 further delineates the requirements for home improvement contracts, including the provision that contractors who file a performance and payment bond or a "bond equivalent. . .approved by the registrar" shall be exempt from certain provisions of the home improvement contract requirements relating to down pay-

ments, progress payments, and the Mechanics' Lien Warning for home improvement work.

There is no existing CSLB regulation that sets forth procedures for filing a biennial report by a licensee that maintains a blanket bond.

This proposal would adopt the regulation in order to:

- Specify that to maintain a blanket bond, a licensee must biennially file a certification statement as specified in Section 858.2 and a financial report relative to the licensee's contracting activity;
- Specify the deadline by which the certification statement and report must be submitted to the Registrar; and
- Provide circumstances under which the Registrar's approval may be rescinded.

**Adopt Section 858.5. Blanket Performance and Payment Bond Audit Authorization and Procedures**

B&P Code Section 7008 authorizes the Board to adopt rules and regulations, in accordance with the Administrative Procedure Act, that are reasonably necessary to carry out the provisions of the chapter of the B&P Code. Section 7111 sets forth provisions to make a licensee subject to disciplinary action if he or she fails to make, maintain, or produce for CSLB inspection relevant business records for not less than five years after date of construction project completion. Section 7159.5 further delineates the requirements for home improvement contracts, including the provision that contractors who file a performance and payment bond or a "bond equivalent. . .approved by the registrar" shall be exempt from certain provisions of the home improvement contract requirements relating to down payments, progress payments, and the Mechanics' Lien Warning for home improvement work.

There is no existing CSLB regulation that establishes authorization and sets forth procedures for the Registrar to order an audit of a licensee that has an approved blanket bond on file with the Board.

This proposal would adopt the regulation in order to:

- Outline the conditions under which the Registrar may order an audit of a licensee's business activities that are germane to the purpose for which the blanket bond has been filed by the licensee; and
- Specify that the Registrar is to have free access to the licensee's records in order to complete the audit for the purpose of ensuring compliance with the 100% rule.

**Adopt Section 858.6. Authorization and Procedures for Ordering the Amount of Blanket Performance and Payment Bond to Be Increased**

B&P Code Section 7008 authorizes the Board to adopt rules and regulations, in accordance with the Ad-



ministrative Procedure Act, that are reasonably necessary to carry out the provisions of the chapter of the B&P Code. Section 7159.5 further delineates the requirements for home improvement contracts, including the provision that contractors who file a performance and payment bond or a “bond equivalent. . .approved by the registrar” shall be exempt from certain provisions of the home improvement contract requirements relating to down payments, progress payments, and the Mechanics’ Lien Warning for home improvement work.

There is no existing CSLB regulation that establishes authorization and sets forth procedures for ordering the amount of a blanket bond to be increased.

This proposal would adopt the regulation in order to:

- Authorize the Registrar to order an increase in the amount of a blanket bond based on the results of an audit;
- Outline the reasons for which the order may be prescribed and the procedures for delivering the order; and
- Specify that the approval of the licensee’s blanket bond shall be rescinded if the licensee fails to comply with the order by the specified deadline.

**Adopt Section 858.7. Maintenance of Blanket Performance and Payment Bond**

B&P Code Section 7000.6 declares that the highest priority of CSLB shall be public protection. Section 7008 authorizes the Board to adopt rules and regulations, in accordance with the Administrative Procedure Act, that are reasonably necessary to carry out the provisions of the chapter of the B&P Code. Section 7071.17 sets forth provisions for the posting of bonds for unsatisfied final judgments and for resultant disciplinary action and/or license suspension for noncompliance. Section 7124.6 establishes provisions for public access to complaints against licensees, including disclaimers and limitations of disclosure. Section 7159.5 further delineates the requirements for home improvement contracts, including the provision that contractors who file a performance and payment bond or a “bond equivalent. . .approved by the registrar” shall be exempt from certain provisions of the home improvement contract requirements relating to down payments, progress payments, and the Mechanics’ Lien Warning for home improvement work.

There is no existing CSLB regulation that sets forth requirements and procedures for maintaining a blanket bond.

This proposal would adopt the regulation in order to:

- Specify that blanket bond approval is subject to rescission if any member of the licensee’s personnel of record, or any salesperson registered to the licensee, is found to be culpable for any acts

or omissions resulting in the suspension or revocation of licensure that is subject to public disclosure or named on any license that is subject to bond suspension;

- Direct the Registrar to provide due consideration to the protection of the public in determining whether or not a blanket bond approval should be rescinded; and
- Specify the maintenance procedures for a blanket bond in relation to the replacement of a qualifying individual.

**Adopt Section 858.8. Rescission of Blanket Performance and Payment Bond Approval**

B&P Code Section 7008 authorizes the Board to adopt rules and regulations, in accordance with the Administrative Procedure Act, that are reasonably necessary to carry out the provisions of the chapter of the B&P Code. Section 7159 sets forth the requirements for home improvement contracts, notably including a limitation on contractors for a down payment that is not to exceed 10% of the contract price or \$1,000, whichever is less, and a requirement to include a Mechanics’ Lien Warning in the contract language. Furthermore, Section 7159 requires that a contract for home improvements contain a schedule of progress payments for the work that is to be accomplished in each phase of the project. Each progress payment must not exceed the value of the amount of work (labor and materials) that has been incorporated into each phase. Section 7159.5 further delineates the requirements for home improvement contracts, including the provision that contractors who file a performance and payment bond or a “bond equivalent. . .approved by the registrar” shall be exempt from certain provisions of the home improvement contract requirements relating to down payments, progress payments, and the Mechanics’ Lien Warning for home improvement work.

There is no existing CSLB regulation that sets forth procedures for rescission of a blanket bond approval.

This proposal would adopt the regulation in order to:

- Specify the conditions under which the Registrar is authorized to rescind approval of a blanket bond;
- Outline the rescission procedures and the process by which the licensee may appeal the Registrar’s decision; and
- Provide for the automatic rescission of the Registrar’s approval in the event that the blanket bond is cancelled.

**Adopt Section 858.9. Posting of Blanket Performance and Payment Bond Information to License Records**

B&P Code Section 7008 authorizes the Board to adopt rules and regulations, in accordance with the Ad-



ministrative Procedure Act, that are reasonably necessary to carry out the provisions of the chapter of the B&P Code. Section 7159.5 further delineates the requirements for home improvement contracts, including the provision that contractors who file a performance and payment bond or a "bond equivalent. . . approved by the registrar" shall be exempt from certain provisions of the home improvement contract requirements relating to down payments, progress payments, and the Mechanics' Lien Warning for home improvement work.

There is no existing CSLB regulation that sets forth procedures for posting of blanket bond information to the license record.

This proposal would adopt the regulation in order to:

- Specify the information that is to be posted to the license record when a blanket bond has been approved and when there is a pending rescission of a blanket bond approval; and
- Specify the time period during which this information is to be posted and the time period for which blanket bond information must remain on the license record subsequent to cancellation of the blanket bond or rescission of approval by the Registrar.

#### **Local Mandate**

The proposed regulatory action does not impose a mandate on local agencies or school districts.

#### **Fiscal Impact on Public Agencies/STD 399**

The proposed regulatory action will not result in costs or savings to any state agency, costs or savings to any local agency or school district that is required to be reimbursed under Part 7 of Division 4 (commencing with Section 17500 of the Government Code), other non-discretionary costs or savings on local agencies, or costs or savings in federal funding to the state.

#### **Cost Impact on Affected Private Persons**

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

#### **Housing Costs**

The proposed regulatory action will not have a significant effect on housing costs.

#### **Effect on Small Business**

The proposed regulatory action will not affect small businesses, because the proposed regulatory action does not impose a new mandate that is being required of all contractors. It defines and outlines procedures for a supplement to an existing requirement that is available on a voluntary basis for those contractors who choose to apply for approval of a blanket bond for business purposes.

#### **Contact Person**

Inquiries or comments concerning the proposed administrative action may be addressed to:

Contractors State License Board  
9821 Business Park Drive  
Sacramento, CA 95827  
Attn: Betsy Figueira  
(916) 255-3369  
(916) 255-6335 (FAX)  
bfigueira@cslb.ca.gov

The backup contact person is:

Michael Brown  
(916) 255-3939  
(916) 255-1395 (FAX)  
mbrown@cslb.ca.gov

Inquiries concerning the substance of the proposed regulations may be directed to Betsy Figueira at (916) 255-3369.

#### **Comment Period**

Written comments must be received by the Board at the Contractors State License Board, 9821 Business Park Drive, Sacramento, CA 95827 not later than Monday, January 10, 2011 at 5:00 p.m. or at the hearing to be held in the Board office at 1:00 p.m. on Monday, January 10, 2011.

#### **Availability of Modifications**

With the exception of technical or grammatical changes, the full text of any modified proposal will be available from the person designated in this notice as the contact person for 15 days prior to its adoption and will be mailed to those persons who submit written or oral testimony related to this proposed regulatory action or who have requested notification of any changes to the proposal.

#### **Reference to Text and Initial Statement of Reasons**

The Board has prepared a statement of the reasons for the proposed action, which is available to the public upon request. The express terms of the proposed action and all information upon which the proposal is based are available upon request.

#### **Business Impact**

CSLB is not aware of any significant statewide adverse economic impact that the proposed regulatory action will have directly affecting business, including the ability of California businesses to compete with businesses in other states, because the proposed regulatory action does not impose a new mandate that is being required of all contractors. It defines and outlines procedures for a supplement to an existing requirement that is available on a voluntary basis for those contractors who choose to apply for approval of a blanket bond for business purposes.

**Impact on Jobs/New Businesses**

The proposed regulatory action will not affect the creation or elimination of jobs within the State of California, the creation of new businesses or the elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California, because the proposed regulatory action does not impose a new mandate that is being required of all contractors. It defines and outlines procedures for a supplement to an existing requirement that is available on a voluntary basis for those contractors who choose to apply for approval of a blanket bond for business purposes.

**Public Hearing**

A public hearing will be held at the Contractors State License Board, 9821 Business Park Drive, Sacramento, California 95827, at 1:00 p.m. on Monday, January 10, 2011.

**Federal Mandate**

The proposed regulatory action is not mandated by federal law or is not identical to any previously adopted or amended federal regulation.

**Consideration of Alternatives**

The Board must determine that no reasonable alternative which it considered or that has otherwise been identified and brought to its attention would be either more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome on affected private persons than the proposed regulatory action. The actual determination must be part of both the Initial and Final Statement of Reasons.

**Availability of the Final Statement of Reasons**

Interested parties may obtain a copy of the Final Statement of Reasons once it has been prepared by making a written request to the contact person named above.

**Website Access**

Materials regarding the proposed regulatory action can be found at [www.cslb.ca.gov](http://www.cslb.ca.gov).

**TITLE 27. OFFICE OF  
ENVIRONMENTAL HEALTH HAZARD  
ASSESSMENT**

**PROPOSED AMENDMENTS TO  
SECTIONS 25801 AND 25803  
NO OBSERVABLE EFFECT LEVELS**

**THE SAFE DRINKING WATER AND TOXIC  
ENFORCEMENT ACT OF 1986**

NOTICE IS HEREBY GIVEN that the Office of Environmental Health Hazard Assessment (OEHHA) pro-

poses to amend Title 27, California Code of Regulations sections 25801 and 25803<sup>1</sup>.

**PUBLIC PROCEEDINGS**

OEHHA is requesting public comment concerning these proposed amendments to the regulation. A public hearing to present oral comments will be scheduled only upon request. Such request must be submitted in writing no later than 15 days before the close of the comment period on Friday, January 28, 2011. The written request must be received by OEHHA at the address listed below no later than Thursday, January 13, 2011. A notice for the public hearing, if one is requested, will be posted on the OEHHA web site at least ten days in advance of the hearing date. The notice will provide the date, time, location and subject matter to be heard. Notices will also be sent to those individuals requesting such notification.

If you have any special accommodation or language needs, please contact Monet Vela at (916) 323-2517 or [mvela@oehha.ca.gov](mailto:mvela@oehha.ca.gov) by Thursday, December 23, 2010. TTY/TDD/Speech-to-Speech users may dial 7-1-1 for the California Relay Service.

Any written statements or arguments, regardless of the form or method of transmission, must be received by OEHHA by 5:00 p.m. on Friday, January 28, 2011, which is hereby designated as the close of the written comment period.

Written comments regarding this proposed action may be sent by mail or by e-mail addressed to:

Fran Kammerer  
Office of Environmental Health Hazard Assessment  
P. O. Box 4010  
Sacramento, California 95812-4010  
Telephone: 916-445-4693  
E-mail: [fkammerer@oehha.ca.gov](mailto:fkammerer@oehha.ca.gov)

Comments sent by courier should be delivered to:

Fran Kammerer  
Office of Environmental Health Hazard Assessment  
1001 I Street, 23<sup>rd</sup> Floor  
Sacramento, California, 95814

**CONTACT**

Inquiries concerning the substance and processing of the action described in this notice may be directed to Fran Kammerer, in writing at the address given above or by telephone at (916) 445-4693. Monet Vela is a back-up contact person for inquiries concerning processing of this action and is available at (916) 323-2517.

<sup>1</sup> All further references are to Title 27 of the California Code of Regulations, unless otherwise indicated.

## INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Safe Drinking Water and Toxic Enforcement Act of 1986, commonly known as Proposition 65 (hereinafter referred to as “Proposition 65” or “the Act”), was enacted as a voters’ initiative on November 4, 1986, and codified at Health and Safety Code section 25249.5 et seq. The Office of Environmental Health Hazard Assessment (OEHHA), within the California Environmental Protection Agency is the state entity responsible for the implementation of the Act. OEHHA has the authority to promulgate and amend regulations to further the purposes of the Act.<sup>2</sup> The Act requires businesses to provide a warning when they cause an exposure to a chemical listed as known to cause cancer or reproductive toxicity. The Act also prohibits the discharge of listed chemicals to sources of drinking water. Certain exceptions to these requirements are provided by the Act.

Section 25801 et seq. was originally adopted in 1989 to implement Health and Safety Code section 25249.10(c) of the Act. For chemicals known to cause reproductive toxicity, an exemption to the warning and discharge provisions is provided if there would be no observable effect given an exposure one thousand (1,000) times the level of exposure in question.

### Summary of Proposed Changes

Subsection 25801(c) the term “maximum dose level” would be changed to “maximum level of exposure” to provide consistency between section 25801(c) and 25803(b)(1).

Subsection 25803(a)(1) has been split into sections (a)(1) and (a)(2) for clarity. In the new subsection 25803(a)(2) the term “highest dose level” has been changed to “highest exposure level” for further consistency. Subsection 25803(a)(2) has also been amended to add the following language “(t)his may be the no observed effect level in a scientific study or, alternatively, may be calculated by means of a generally accepted scientific methodology such as the benchmark dose methodology. Where a study, for example epidemiological publication, reports a range of exposure levels associated with no observed effect the NOEL may be selected from within the range or calculated by benchmark dose or other accepted scientific methodology”. This added language recognizes procedures which may be more scientifically appropriate for certain data sets, such as the benchmark dose methodology.

The previously numbered subsection 25803(a)(2) would be renumbered to (a)(3) and amended to describe with more specificity the intent of the regulation.

The following language will be added to subsection 25803(b) “(i)n the absence of principles or assumptions scientifically more appropriate based upon the available data, the following default principles or assumptions shall apply in any such assessment” making this subsection consistent with subsection 25803(a). Also proposed for addition to subsection 25803(b) are default bodyweights for children and infants, where currently only default bodyweights for adults were provided.

### AUTHORITY

Health and Safety Code section 25249.12.

### REFERENCE

Health and Safety Code sections 25249.5, 25249.6, 25249.7, 25249.9, 25249.10, and 25249.11.

### IMPACT ON LOCAL AGENCIES OR SCHOOL DISTRICTS

OEHHA has determined the proposed regulatory action would not impose a mandate on local agencies or school districts; nor does it require reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. OEHHA has also determined that no nondiscretionary costs or savings to local agencies or school districts will result from the proposed regulatory action. Proposition 65 expressly does not apply to federal, state or local governmental agencies (Health and Safety Code section 25249.11(b)).

### COSTS OR SAVINGS TO STATE AGENCIES

OEHHA has initially determined that no savings or increased costs to any State agency will result from the proposed regulatory action. Proposition 65 expressly does not apply to federal, state or local governmental agencies (Health and Safety Code section 25249.11(b)).

### EFFECT ON FEDERAL FUNDING TO THE STATE

OEHHA has initially determined that no costs or savings in federal funding to the State will result from the proposed regulatory action.

### EFFECT ON HOUSING COSTS

OEHHA has initially determined that the proposed regulatory action will have no effect on housing costs.

<sup>2</sup> Health and Safety Code section 25249.12(a)

**SIGNIFICANT STATEWIDE ADVERSE  
ECONOMIC IMPACT DIRECTLY AFFECTING  
BUSINESS, INCLUDING ABILITY TO COMPETE**

OEHHA has made an initial determination that the adoption of the regulation will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. The proposed regulation does not impose any new requirements upon private persons or business.

**IMPACT ON THE CREATION, ELIMINATION,  
OR EXPANSION OF JOBS/BUSINESSES**

OEHHA has initially determined that the proposed regulatory action will not have any impact on the creation or elimination of jobs, the creation of new businesses or the elimination of existing businesses, or the expansion of businesses currently doing business within the State of California.

**COST IMPACTS ON REPRESENTATIVE  
PRIVATE PERSONS OR BUSINESSES**

OEHHA is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

**EFFECT ON SMALL BUSINESSES**

OEHHA has determined that the proposed regulatory action will not impose any new or additional requirements on small business. Proposition 65 is limited by its terms to businesses with 10 or more employees (Health and Safety Code sections 25249.5, 25249.6, and 25249.11(b)). The proposed amendments would provide an affirmative defense, under specified circumstances, to allegations that a person doing business may have violated the Act or related regulations.

**CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code section 11346.5(a)(13), OEHHA must determine that no reasonable alternative considered by OEHHA, or that has otherwise been identified and brought to the attention of OEHHA would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

**AVAILABILITY OF STATEMENT OF REASONS  
AND TEXT OF PROPOSED REGULATIONS**

OEHHA has prepared and has available for public review an Initial Statement of Reasons for the proposed

amendments to these regulations, all the critical information upon which the regulation is based, and the text of the proposed amendments. A copy of the Initial Statement of Reasons and a copy of the text of the proposed amendments to these regulations are available upon request from Monet Vela at the telephone number indicated above. These documents are also posted on OEHHA's Web site at [www.oehha.ca.gov](http://www.oehha.ca.gov).

**AVAILABILITY OF CHANGED OR  
MODIFIED TEXT**

The full text of any regulation which is changed or modified from the express terms of the proposed action will be made available at least 15 days prior to the date on which OEHHA adopts the resulting regulation. Notice of the comment period on the changed proposed regulations and the full text will be mailed to individuals who testified or submitted oral or written comments at the public hearing, whose comments were received by OEHHA during the public comment period, and who request notification from OEHHA of availability of such change. Copies of the notice and the changed regulation will also be available at the OEHHA's Web Site at [www.oehha.ca.gov](http://www.oehha.ca.gov).

**FINAL STATEMENT OF REASONS**

A copy of the Final Statement of Reasons may be obtained, when it becomes available, from Monet Vela at the telephone number indicated above. The Final Statement of Reasons will also be available at the OEHHA's Web site at [www.oehha.ca.gov](http://www.oehha.ca.gov).

**GENERAL PUBLIC INTEREST**

**DEPARTMENT OF FISH AND GAME**

**Department of Fish and Game —  
Public Interest Notice**

For Publication November 26, 2010  
CESA CONSISTENCY DETERMINATION  
REQUEST FOR  
Caltrans Sac 80 HOV Project  
Sacramento County  
2080-2010-056-02

The Department of Fish and Game (Department) received a notice on November 15, 2010 that the California Department of Transportation (Caltrans) proposes to rely on a consultation between federal agencies to



carry out a project that may adversely affect species protected by the California Endangered Species Act (CESA). The proposed action would consist of construction of 12-foot wide auxiliary lanes in the shoulders of the eastbound and westbound directions of the Interstate 80, between Northgate Boulevard and Norwood Avenue, and construction of 9.8 miles of HOV lanes in the median of Interstate 80 from just east of the Sacramento River to Watt Avenue.

The U.S. Fish and Wildlife Service (Service) issued a federal programmatic biological opinion (File No. 81420-2008-F-0095-1)(BO) and incidental take statement (ITS) to the U.S. Army Corps of Engineers on January 17, 2008 which considered the effects of the project on the Federally and State threatened Giant Garter snake (*Thamnophis gigas*). The BO was amended on July 22, 2010.

Pursuant to California Fish and Game Code Section 2080.1, Caltrans is requesting a determination that the BO and ITS are consistent with CESA for purposes of the proposed Project. If the Department determines the BO and ITS are consistent with CESA for the proposed Project, Caltrans will not be required to obtain an incidental take permit under Fish and Game Code section 2081 for the Project.

## DEPARTMENT OF PARKS AND RECREATION

Public Interest Notice  
For Publication November 26, 2010

DIRECTOR'S FINAL FINDINGS  
Relating to Reconfiguration of  
Candlestick Point State Recreation Area

Chapter 203, Statutes of 2009 (SB 792)

### BACKGROUND

Chapter 203, Statutes of 2009, (SB 792) authorizes the Director of the Department of Parks and Recreation (Director) to enter into land exchange agreements with the State Lands Commission, the City and County of San Francisco (City) and the Redevelopment Agency of the City and County of San Francisco (Agency) in order to provide for the reconfiguration and improvement of the Candlestick Point State Recreation Area (CPSRA) and to facilitate implementation of a major redevelopment of the Hunters Point Shipyard/Candlestick Point areas of San Francisco, proposed by the City and the Agency (Redevelopment Project). Based on recent sur-

veys, the current CPSRA (exclusive of underwater lots) is comprised of approximately 150 acres of property, approximately 96 of which is held in fee by the Department of Parks and Recreation (State Parks), with the remainder being leased to State Parks by the State Lands Commission, which holds the property in fee as trust lands.

In furtherance of the legislative goals articulated in SB 792, State Parks has negotiated the Candlestick Point State Recreation Area Reconfiguration, Improvement and Transfer Agreement (Agreement) with the Agency and the State Lands Commission which, inter alia, authorizes the conveyance of certain lands within the existing CPSRA to the Redevelopment Agency, in exchange for other lands, cash and other consideration, and upon certain specified terms and conditions.

In addition to the conveyances described in the Agreement, and as authorized by SB 792, State Parks negotiated with the State Lands Commission for an exchange of ownership interests of property currently in the CPSRA, whereby the State Lands Commission's ownership and trust interests will be consolidated along the shoreline band of the CPSRA (and leased to State Parks), and State Parks will hold a fee interest in the inland portions of the CPSRA. This exchange of ownership interests would be governed by the Hunters Point Shipyard/Candlestick Point Title Settlement, Trust Exchange and Boundary Line Agreement (Trust Exchange). Parties to the Trust Exchange also include the Agency and the City, which have agreed to make certain conveyances of lands to the State Lands Commission for the purpose of impressing certain lands with the Public Trust, in exchange for the termination of the Public Trust on other lands which are needed for the Redevelopment Project.

Following certification of the Environmental Impact Report for the Candlestick Point-Hunters Point Shipyard Phase II Development Plan Project (EIR), the Agency approved the Redevelopment Project, the Agreement, and the Trust Exchange on June 3, 2010. The City's Board of Supervisors made a number of approvals relating to the Redevelopment Project including approval of the Trust Exchange, on July 27, 2010, and finally approved the Redevelopment Project on August 3, 2010.

Section 26 of SB 792 requires the Director to make certain written findings prior to executing any agreement to convey to the City or to the Agency any interest in real property held by the state within the existing boundaries of the CPSRA. Pursuant to SB 792, the Director published proposed findings in this Register more than 30 days prior to the issuance of these Final Findings. The Director received no public comment on the proposed findings.

## FINDINGS

Unless otherwise noted, each of the documents cited in the findings may be found in the depository of documents found at [www.parks.ca.gov/findings](http://www.parks.ca.gov/findings). In addition to those documents found in the depository, the Director considered other reference materials.

### **FINDING NO. 1:**

**STATE PARKS WILL RECEIVE MONETARY AND OTHER FORMS OF CONSIDERATION HAVING A TOTAL VALUE OF FIFTY MILLION DOLLARS (\$50,000,000.00), WHICH IS GREATER THAN THE FAIR MARKET VALUE OF THE PROPERTY PROPOSED TO BE REMOVED FROM THE CPSRA AND CONVEYED TO THE AGENCY PURSUANT TO THE TERMS OF THE AGREEMENT. PAYMENT OF CONSIDERATION FOR THE STATE PROPERTY TO BE CONVEYED AT EACH PHASE WILL BE PROPORTIONED IN PROPORTION TO THE TOTAL AREA OF STATE PROPERTY TO BE CONVEYED.**

#### **Support for Finding No. 1:**

State Parks will receive fifty million dollars (\$50,000,000.00) in monetary and other compensation. (**Agreement, sections 4.1 and 4.2.**)

The fair market value of the property proposed to be conveyed to the Agency pursuant to the Agreement was determined by an appraisal prepared by Clifford Associates "Appraisal Report, Hunters Point Shipyard/Candlestick Point Redevelopment Project Site," dated April 20, 2010 (Appraisal). The subject property analyzed in the Appraisal includes those portions of the CPSRA to be conveyed to the Agency. The Appraisal concludes that the fair market value of the State property was substantially below \$50,000,000.00. At the request of State Parks, the Real Estate Services Division of the Department of General Services has reviewed and approved the Appraisal. (**Appraisal Report.**)

The Agreement provides that the lands will be transferred to the Agency in several phases, subject to specified terms and conditions. Based on current acreage estimates, it is contemplated that a total of 26.84 acres of state property are going to be transferred to the Agency pursuant to the Agreement. Based on this estimate, and subject to adjustment in the Agreement (following the completion of land survey work), the Agreement requires that at each phased conveyance, the Agency will provide State Parks with at least \$1,862,891.20 in consideration for each acre to be conveyed at that phase. (Agreement, Section 5.) This amount represents the pro rata share per acre of the \$50 million consideration.

### **FINDING NO. 2:**

**THE FORM OF CONSIDERATION FOR THE STATE PROPERTY TO BE CONVEYED OUT OF THE CPSRA CONSISTS OF THE FOLLOWING:**

**(A) THE PROVISION OF FUTURE FUNDING FOR THE OPERATION AND MAINTENANCE OF THE CPSRA IN THE AMOUNT OF TEN MILLION DOLLARS (\$10,000,000.00),**

**(B) THE AMOUNT OF FORTY MILLION DOLLARS (\$40,000,000.00) TO BE USED FOR THE COST OF PLANNING AND CONSTRUCTING IMPROVEMENTS IN THE RECONFIGURED CPSRA THAT WILL ENHANCE ITS USE AS A PARK AND FOR REIMBURSEMENT AS PROVIDED IN (D) BELOW,**

**(C) LAND WITHIN THE REDEVELOPMENT PROJECT AREA THAT WILL BE ADDED TO THE CPSRA,**

**(D) STATE PARKS WILL BE REIMBURSED FOR ITS LEGAL, TRANSACTIONAL, PLANNING AND OTHER COSTS ASSOCIATED WITH IMPLEMENTING THE PROVISIONS OF SB 792, AND**

**(E) THE DIRECTOR FURTHER FINDS THAT IT IS NOT APPROPRIATE TO REQUIRE ANY ADDITIONAL MONETARY COMPENSATION.**

#### **Support For Finding No. 2:**

The Agreement requires the consideration to State Parks to be in the following forms:

(A) Section 4.1 of the Agreement provides that the Agency will provide \$10 million, in cash, to State Parks for the exclusive purpose of providing a dedicated source to augment funding for the operation and maintenance of the reconfigured CPSRA. (**Agreement, section 4.1.**)

(B) Section 4.2 of the Agreement provides that the Agency will provide \$40 million for planning and constructing park-related improvements within the reconfigured CPSRA (improvement fund), and for reimbursement to State Parks for legal, transactional, planning, and other costs associated with implementing the provisions of SB 792. (**Agreement, sections 4.2, 5.3, 5.5.**)

(C) Lands comprising approximately seven acres will be added to the reconfigured CPSRA in accordance with Section 3, and Exhibits B and C of the Agreement. (**Agreement, section 3, Exhibits B and C.**)

(1) The Agency will convey to State Parks all of its right, title and interest in lands identified in the Agreement as the "Yosemite

Slough Trust Termination Parcel” and the “Park Addition Trust Termination Parcel” pursuant to section 3.3 of the Agreement. (**Agreement, section 3.3.**)

(2) The Agency will convey to the State Lands Commission all of its right, title and interest in lands identified in the Agreement as the “Yosemite Slough Addition Public Trust Parcel” and the “Park Addition Public Trust Parcel”, pursuant to section 3.1 of the Agreement, and thereafter, in accordance with section 3.5 of the Agreement, the State Lands Commission will lease these two parcels to State Parks for inclusion in the reconfigured CPSRA for a period of 66 years. (**Agreement, sections 3.1, 3.5.**)

(D) Section 5.3 of the Agreement provides reimbursement to State Parks for legal, transactional, planning, and other costs associated with implementing the provisions of SB 792. (**Agreement, section 5.3.**)

(E) The Director determines that the payment of \$50 million of consideration in accordance with the above-described requirements is sufficient to compensate State Parks for the land that is being transferred out of the CPSRA to the Agency, and that it is not appropriate to require the payment of additional monetary compensation.

### **FINDING NO. 3:**

**THE AGREEMENT WILL PROVIDE AN OVERALL BENEFIT TO THE STATE RECREATION AREA AND WILL FURTHER THE OBJECTIVE OF PRESERVING THE PARK’S NATURAL, SCENIC, CULTURAL, AND ECOLOGICAL VALUES FOR PRESENT AND FUTURE GENERATIONS.**

#### **Support For Finding No. 3:**

#### **(A) The Agreement Will Provide An Overall Benefit To The State Recreation Area.**

*Land exchange.* The existing CPSRA General Plan, as amended in March, 1988 (General Plan), states that the park unit is of statewide significance because it is the first State Park System unit purposely acquired to bring State Park System values into an urban setting. One of the purposes of the park unit is “. . .to make available to the people the recreational opportunities, passive and active, that are offered by the shoreline, waters, and environment of the San Francisco Bay, and the adjacent bay waters.” (**General Plan**)

The Agreement supports the stated unit purpose by adding approximately 5.8 acres of land to the CPSRA directly adjacent to the existing CPSRA along James-town Avenue, near Hermit’s Cove. The Agreement re-

fers to this area as the Park Addition Parcels. (**Agreement, Exhibit C.**)

Although the Park Addition property is currently owned by the City and County of San Francisco and leased by the City to the San Francisco 49ers, the City has approved an Agreement For Transfer of Real Estate between the City and County of San Francisco and the Redevelopment Agency (Rec/Park Agreement), obligating itself to transfer the property to the Agency for subsequent conveyance to the State upon termination or expiration of the lease. Paragraph 9.16 of the Rec/Park Agreement expressly identifies State Parks as a third party beneficiary giving State Parks the authority to enforce the transfer. (**Rec/Park Agreement, paragraph 9.16.**)

The conveyance of the Park Addition property by the Agency to the State will result in an increase in the width of the park along approximately 1,300 lineal feet of the existing CPSRA southern shoreline edge, at an area known as “The Neck”. The addition of this property will provide the CPSRA with additional land along the shoreline of the existing park where the land has eroded necessitating the placement of riprap in order to stabilize the road fill bank. Continued erosion is expected to occur, in part due to sea level rise and storm surges. Currently there is not enough land above mean high tide to provide the desired level of public access and there is no improved pedestrian access in this area. The increased width of the park at this location will allow space for a high quality segment of the Bay Trail to be constructed and beach day-use facilities, thereby providing increased visitor access to the bay shoreline. The additional land will also provide opportunity for erosion control and shoreline stability solutions to be constructed. (**Parks, Open Space and Habitat Concept Plan, at p. 115.**)

A portion of the CPSRA includes Yosemite Slough. State Parks, in partnership with the California State Parks Foundation (CSPF) and environmental organizations, has proposed a Yosemite Slough Restoration Project, which includes plans for habitat restoration, soil remediation, trail construction, and educational programming in the area surrounding Yosemite Slough. The Agreement promotes the Yosemite Slough Restoration Project, and therefore benefits the entire CPSRA, by obligating the Agency to convey to the State approximately 1.3 acres of land needed for the Restoration Project. (**Agreement, Sections 3.1, 3.3, and Exhibits B and C.**)

The Agency will convey the Yosemite Slough Addition to the State as part of the first phased closing under the Agreement, and will quitclaim the Park Addition to the State as part of the second phased closing. (**Agreement, section 5.2.**) As noted in Paragraph B of the Agreement, and in the Rec/Park Agreement, the



Agency will not obtain title to the Park Addition Parcels until the City's lease with the San Francisco 49ers terminates or expires. The transfer of any land out of the CPSRA after the first closing phase is contingent on the transfer of the Park Addition to the State. (**Agreement, sections 5.3(a), 13.2; see Rec/Park Agreement, paragraph B.**)

The lands to be removed from the CPSRA, in contrast, add little recreational value to the CPSRA. Approximately two-thirds of the area (17.5 acres) consists of the landward-most portion of an area that serves a parking lot for the adjacent 49ers football stadium. These lands consist of dirt, gravel and paved parking areas with no landscape beautification or park facilities and little or no ecological value. The remaining areas (approximately 9.2 acres total) include a paved parking area along the Hunters Point Expressway near the main entrance and an adjacent grassy area; a narrow strip along Harney Way; and portions of the Arelious Walker Drive right of way on either side of Yosemite Slough. The lands to be added to the CPSRA under the Agreement will provide substantially greater benefit to the CPSRA than is provided by the lands to be removed. (**Candlestick Point–Hunters Point Shipyard Phase II Development Plan EIR (“EIR”), Recreation Section, p. III. P–17–25, Comments and Responses pp. 753–54; Lennar Urban, Existing Candlestick Point State Recreation Area Land Quality & Proposed SRA Land Exchange, dated November 16, 2010 (map).**)

The CPSRA, as reconfigured under the Agreement, will not be significantly adversely affected by adjacent vertical development, in particular by the effects of shadow. The Redevelopment Project design incorporates building height restrictions and allowable tower locations that will minimize shadowing on the CPSRA. The Tower Variant D option, developed by the Agency, in consultation with State Parks, to address shadow issues and adopted as part as the final Redevelopment Project, would result in shadowing of portions of CPSRA during approximately 3% of total daylight hours (**Candlestick Point–Hunters Point Shipyard Phase II Development Plan, Comments and Responses, C&R –7, Tower Variant D; Letter from CADP (shadow consultant) to Wells Lawson dated August 5, 2010.**) The amount of new shadow within the CPSRA created by the Redevelopment Project will not substantially affect the park.

*Other consideration.* The Agreement also supports and benefits the CPSRA insofar as it obligates the Agency to provide State Parks with \$10 million to augment funding for operation and maintenance expenses of the CPSRA (**Agreement, section 4.1.**), and \$40 million for planning and constructing park-related improvements within the reconfigured CPSRA (**Agree-**

**ment, section 4.2.**), including reimbursement for the State's planning, or other costs associated with actions carried out pursuant to Section 27 of SB 792 (**Agreement, sections 4.2, 5.5.**). These park-related improvements are expected to include facilities to support wind surfing, picnicking, non-motorized boating, wildlife habitat enhancement and interpretive facilities. Costs for revising the 1988 General Plan currently underway are also being funded by the \$40 million improvement fund.

As required by SB 792, the Agreement earmarks both the park improvement funding and the operation and maintenance funding for use at CPSRA, assuring the funds will be used to benefit the CPSRA. (**Agreement, sections 4.1, 4.2, 14.**) The park improvement funding will substantially improve the recreational value of the CPSRA; it will allow State Parks to fully implement the vision of the CPSRA reflected in the General Plan, as it may be amended.

The operation and maintenance funding is also critical to the long term viability to the CPSRA. The operation and maintenance funding will ensure the CPSRA has a dedicated funding source for park operations and maintenance for years to come.

The Agreement also obligates the Agency to cooperate in providing State Parks with 3,000 square feet of community facilities space within Candlestick Point, that the Agency is to receive under the Redevelopment Project, without payment of a purchase price or base rent. (**Agreement, section 20.**) It is anticipated that State Parks will use this space for a welcoming or information center for the CPSRA, further enhancing the experience of visiting the park. In addition, provision of this community facilities space allows State Parks to better utilize the lands within the reconfigured CPSRA for shoreline related recreation.

*Increased protection of the shoreline property.* Overall support for the CPSRA is also found in the Trust Exchange referenced in paragraph A of the Agreement. By the Trust Exchange, State Parks, the State Lands Commission, the Agency and the City have agreed to make certain conveyances of lands for the purpose of impressing certain lands with the Public Trust, and terminating the Public Trust on other lands, resulting in a consolidation of trust lands along the shoreline of the CPSRA. These shoreline lands will be leased by the State Lands Commission to State Parks for a period of 66 years pursuant to Section 3.5 of the Agreement, and will be operated by State Parks as an integral part of the reconfigured CPSRA. These trust lands will continue to be subject to Public Trust restrictions, enforced by the State Lands Commission, which restrictions provide additional assurance that these shoreline lands will be preserved in public ownership in perpetuity. (**Agreement, section 3.5; see Trust Exchange, section 3.**)



(B) The Agreement Will Further Preservation of The Park's Natural And Ecological Values.

Existing natural and ecological values of the CPSRA are noted in the Resources Element of the General Plan: "in the mud and sand beds are a number of invertebrates, including soft shell and bent nosed clams, ghost shrimp, marine worms, and many other small animals" and, "oysters and other invertebrates are found on the rocks along the shoreline. All of these invertebrates are important to the bay ecosystem. . . The Bay also supports a relatively large population of waterfowl and water-associated birds, many of which are migratory, and a smaller number that are resident. . . the bay. . . has great potential for future improvement and enhancement." The General Plan recognizes that "the natural environment of significance is the San Francisco Bay itself". **(General Plan)**

The Agreement helps preserve these natural and ecological values by maintaining these shoreline areas undisturbed. The increase of the width of the park at "The Neck" will widen the buffer between the bayshore and non-park development reducing potential risks to the shoreline habitats from impacts arising outside the CPSRA.

The Agreement protects the restoration of the slough by requiring that the design, planning and construction of the Yosemite Slough Bridge be coordinated with State Parks and CSPF. **(Agreement, Section 21.)** Implementation of the Yosemite Slough Restoration Project will provide suitable habitat for various bird species and other animals noted in the Natural Values section of the General Plan, and will also enhance the bay shoreline. The Yosemite Slough Addition lands, which will be conveyed to the State pursuant to the Agreement, are within the Restoration Project area and are needed to fully implement the Restoration Project.

The Agreement obligates the Agency to provide funding resources equivalent to \$50 million. These resources will assist with providing additional enhancement of habitats and renovation of the CPSRA's ecological systems, helping fulfill the potential for future improvement, including improvement discussed in the current General Plan. The improvements will be further described in the General Plan revision now under way, and are expected to include enhancements of existing tidal wetlands, improvements to planned areas of grasslands and expansion of tree canopies and large shrub habitat. **(General Plan)**

With regard to construction of a bridge across Yosemite Slough, Section 21.2 of the Agreement provides that ". . . the Agency and State Parks shall (a) reasonably cooperate to identify and incorporate into the construction and design plans for the Bridge features that will: (i) be consistent with the wetland and aquatic

habitat objectives set forth in the Wetland Restoration and Management Plan, Yosemite Slough, WRA Environmental Consultants, January, 2006 ("Restoration Plan"), which may include, but are not limited to, providing new or restored habitat to compensate for any portion of the wetland or aquatic habitat (or any upland habitat that is immediately adjacent to the Bridge abutments) that is proposed to be created or restored in the Restoration Plan but cannot be created or restored due to Bridge construction; (ii) provide vista points in the park and on the Bridge offering views of the Bay and the Slough; (iii) ensure that Bridge design and aesthetics meet a high standard of excellence; (iv) provide for substantial views of the Bay beyond the bridge from the Slough; (v) ensure consistency with the public access and recreational objectives of the Restoration Plan, including the ability to navigate small human-powered craft between the Slough and the Bay and which may include, but are not limited to, providing new or enhanced recreational or public access improvements to compensate for any portion of the proposed creation of such improvements under the Restoration Project (as that project is described in the Restoration Plan) that cannot be created due to Bridge construction; and (b) use their best efforts to reach mutual agreement on the final Bridge design, construction plans, and associated enhanced restoration plans. . . "

In addition, Section 21.1 of the Agreement provides that the Agency "shall not undertake, approve, or permit construction of the Bridge unless all of the following conditions are met: (a) the Bridge is required to function primarily for public transit, bicycle, and pedestrian use, and is closed to private motor vehicle traffic except for no more than 20 days per year; (b) the Bridge will serve as a part of the open space network on all days when it is not open to private motor vehicle traffic; (c) any traffic lane on the Bridge that will carry private vehicle traffic will be no wider than 10 feet; (d) no more than four private vehicle traffic lanes will exist on the Bridge; and (e) the bicycle and pedestrian lanes on the Bridge will be integrated with the bicycle and trail system in the CPSRA." These provisions will ensure, among other things, that the size and function of the bridge are limited and that the bridge will not preclude the accomplishment of the objectives of the Restoration Plan.

(C) The Agreement Will Further Preservation of The Park's Scenic Values.

The existing General Plan states that "[T]he setting of Candlestick Point State Recreation Area next to the San Francisco Bay provides important opportunities for satisfying the recreation and open space needs of people living or visiting in the San Francisco area. It is the policy of the department to protect the scenic val-

ues. . .while fully realizing the potential of the area for fulfillment of outdoor recreation needs.” The General Plan also notes that the recreation area includes “areas of seclusion and panoramic views, including distant views of the San Bruno Mountain, East Bay hills, and San Francisco Bay, which impart a relaxing sense of solitude.” (**General Plan**)

These scenic values will be preserved by the Agreement. The shoreline areas and key observation points from which visitors observe San Bruno Mountain, the East Bay hills, and San Francisco Bay remain within the CPSRA, preserving these scenic vistas. “The Neck” area of the shoreline defines the northerly shore of Hermit’s Cove which contains a very large sand beach and provides exceptional viewing areas looking southwest towards San Bruno Mountain. The widening of “The Neck” area of the park, which will result from the land transfers described in the Agreement, will result in creating a buffer between the new development and the shoreline, moving noise and other disturbances from roadway traffic away from the Park, thereby enhancing the sense of solitude enjoyed by park visitors. Also, the Candlestick Point SRA General Plan revision currently underway contemplates use of a portion of the \$40 million improvement fund provided in Section 3 of the Agreement for construction of enhancements and improvements to the shoreline which will preserve and improve the scenic value of the CPSRA as viewed from the Bay and other shoreline areas.

In addition, if a bridge is built across Yosemite Slough, the Agreement ensures that State Parks will be a participant in the design of any bridge, and that the Agency will cooperate with State Parks to incorporate design features that will provide vista points in the park and on the bridge offering views of the San Francisco Bay and Yosemite Slough, and provide for substantial views of the bay beyond the bridge from the slough. (**Agreement, section 21.2.**)

**(D) The Agreement Will Further Preservation of The Park’s Cultural Values.**

The existing General Plan notes that the Candlestick Point area consists principally of fill materials deposited since 1955. State Parks is currently unaware of any archaeological sites within the CPSRA. There are however, Native American shellmounds known to occur in the general area, outside of the boundaries of CPSRA and there is also potential for shellmound(s) to occur beneath the fill material within CPSRA. (**General Plan**)

Off shore areas of the CPSRA are known to include at least four hulks embedded in the underwater mud just off shore at Candlestick Cove, an area near the southwest edge of CPSRA. This area was used for marine salvage operations between 1910 and 1940, and it is believed that the four hulks are the remains of salvaged

wooden ships. Additional hulks maybe buried in the filled areas around CPSRA, however the existence of such is undocumented.

The Agreement does not contemplate any activity which would disturb or destroy the known cultural resources; these resources will remain buried and protected beneath the fill material within CPSRA.

The Agreement provides partial funding for preparation of the CPSRA General Plan Amendment revision currently underway. (**Agreement, section 4.2.**) The revision contemplates new interpretive opportunities of the archeological and historical resources of the site and vicinity that will be funded from the \$40 million improvement fund guaranteed by the Agreement. (**Agreement, section 4.**)

**FINDING NO. 4:**

**FOLLOWING THE CONVEYANCES DESCRIBED IN THE AGREEMENT, THE RECONFIGURATION OF THE CPSRA WILL SUBSTANTIALLY CONFORM TO THE CONFIGURATION SHOWN ON THE DIAGRAM REFERENCED IN SECTION 27 OF SB 792, AND AS MORE PARTICULARLY ILLUSTRATED ON THE MAP ON FILE WITH CITY’S PLANNING DEPARTMENT ENTITLED, “PROPOSED STATE PARK LAND EXCHANGE” AND DATED SEPTEMBER 3, 2009.**

**Support For Finding No. 4:**

The diagram referenced in Section 27 of SB 792 and the September 3, 2009 map referenced in Section 26(a)(4) of SB 792 (collectively, “statutory configuration”) are attached to the Agreement as Exhibit E. Exhibits A, B and C to the Agreement depict the parcels of land that will be transferred out of, and added to the CPSRA. The reconfiguration of the CPSRA following the conveyances depicted on Exhibits A, B and C will be the same as the statutory configuration, except for an approximately 63 foot strip of land along the Arelious Walker Street right of way on the north side of the Slough which will be also transferred out of the CPSRA to the Agency.

The Director finds that the transfer of this approximately 0.8 acre strip of land out of the CPSRA is minor and is not a substantial departure from the statutory configuration. This minor departure from the statutory configuration is necessitated by the Director’s decision that construction of the Yosemite Bridge abutments/footings along Arelious Walker Street should not occur on State Parks land; therefore this property will be conveyed to the Agency, subject to the State’s reversionary interest if the bridge is not constructed within a specified time period. (**Agreement, section 2.2, Exhibits A, B, C and E.**)

**FINDING NO. 5:**

**THE REDEVELOPMENT PROJECT, INCLUDING THE RECONFIGURATION OF THE STATE RECREATION AREA, WILL NOT RESULT IN A SIGNIFICANT ADVERSE EFFECT ON BIOLOGICAL RESOURCES, AND WILL INCLUDE HABITAT ENHANCEMENT MEASURES TO BENEFIT MIGRATORY BIRDS AND OTHER WILDLIFE. IN MAKING THIS DETERMINATION, THE DIRECTOR HAS TAKEN INTO CONSIDERATION THE MITIGATION MEASURES INCORPORATED INTO THE REDEVELOPMENT PROJECT EIR.**

Support for Finding No. 5:(A) The Redevelopment Project Will Not Result In A Significant Adverse Effect On Biological Resources:

Based upon the information presented in the EIR, the Redevelopment Project, as mitigated, will not have a substantial adverse effect on any special-status plant or wildlife species, riparian habitat, federally-protected wetlands, or other sensitive natural communities. The Redevelopment Project will also not substantially interfere with the movement of any native resident or migratory fish or wildlife species, wildlife corridors, or wildlife nursery sites. The Redevelopment Project will not have any significant and unavoidable impacts to biological resources. (**EIR, Chapter V.**) The Redevelopment Project does not conflict with any local policy or ordinance that protects biological resources, or with a regional habitat conservation plan or natural community conservation plan.

PBS&J, an environmental consultant for the EIR, completed a biological study of the Redevelopment Project Site and the aquatic areas, including Yosemite Slough, during the summer of 2007 and in 2008. This study included a field survey documenting existing habitats, the plants and animals occurring in those habitats, and any significant habitat types that may be protected by state and federal law. PBS&J determined that landscaped/ornamental and nonnative annual grassland habitats occupy much of Candlestick Point, while the Hunters Point Shipyard Phase II area consists largely of urban/developed areas, that small areas of freshwater wetlands and nontidal salt marsh are present at the Hunters Point Shipyard Phase II area, and that narrow strips of tidal salt marsh are present along the shoreline at scattered places on Candlestick Point and portions of the Hunters Point Shipyard Phase II area. PBS&J also concluded that no special-status plants have been recorded, and none are expected to occur, on the site although several special-status animal species are present (**EIR, Appendix N1 "Candlestick Point/Hunters Point Shipyard Redevelopment Project Biological Technical Report," Executive Summary.**)

The Redevelopment Project proposes the construction of non-park development on lands transferred out of the CPSRA that will be set back from the bayshore in significant measure so that redevelopment will not affect valuable bay habitats. (**EIR, Figure 11-4, Proposed Land Use Plan.**)

The lands to be removed from the CPSRA consist of approximately 21.5 acres of parking lot area and approximately five acres of disturbed, non-native grassland. Non-native grassland areas serve as foraging habitat for raptors such as red-tailed hawk and American kestrel. (**EIR, pp. III.N-76-78.**) The removal and subsequent development of approximately five acres of these areas, along with the alteration of other such grasslands elsewhere on the Redevelopment Project site, would diminish raptors' ability to forage on the non-native grasslands. However, an adopted mitigation measure (MM BI-7b) for the Redevelopment Project requires the creation of new grassland foraging habitat, including approximately 43 acres of new native grasslands on the southern portion of the shipyard (as discussed further below). (**EIR, p. III.N-78.**) The mitigation measure also requires trees and shrubs to be planted outside these grassland areas to provide foraging, nesting, and roosting habitat for birds. These measures will not only reduce impacts to foraging habitat to a less than significant level, they would provide an overall habitat enhancement, as discussed further below.

The Redevelopment Project would involve removal and/or modification of areas that have the potential to contain special-status animal species, including: seven potentially breeding avian species, one bat species, and four fish species (green sturgeon, Chinook, steelhead, and longfin smelt). The Redevelopment Project also has the potential to affect designated critical habitat of the green sturgeon and Central California Coast steelhead, thus directly impacting threatened and/or endangered species through habitat conversion or unauthorized take. In addition, Redevelopment Project activities would occur within habitats of locally rare or sensitive species such as Pacific herring and Olympia oysters, as well as avian species protected by the Migratory Bird Treaty Act and the California Fish and Game Code.

However, implementation of ecological Redevelopment Project design features described in the Parks, Open Space, and Habitat Concept Plan and required by mitigation measure MM BI-7b, would result in multiple measures to avoid, limit, and mitigate for impacts to special-status and legally protected species. Specifically, the Redevelopment Project design components would remove invasive species; restore, preserve, and enhance wetland, aquatic and grassland habitats; create stormwater treatment wetlands; revegetate the site with extensive planting of trees and shrubs; increase the



vegetative cover for foraging and dispersing animals; and maintain and enhance habitat connectivity along the shoreline. Additionally, mitigation measure MM BI-6a.1 requires impact avoidance and pre-construction surveys for nesting special-status and legally protected avian species, and protection of active nests. Mitigation measures MM BI-4a.1 and 4a.2 protecting water quality, wetlands, and aquatic habitats, and requiring compensatory mitigation for lost wetlands and aquatic habitats; MM BI-5b.1, 5b.2, 5b.3 and 5b.4 requiring avoidance and minimization of impacts to eelgrass, and compensatory mitigation for lost eelgrass habitats; MM BI-9b to avoid pile-driving impacts on aquatic species; and MM BI-12a.1, 12a.2, 12b.1 and 12b.2 to reduce impacts to fish and their habitats will all provide additional protection of these sensitive species and provide mitigation for loss of their habitat as necessary to reduce impacts to less than significant levels. Additional mitigation measures describe specific survey and protection protocols for two species with particular needs, the burrowing owl and the American peregrine falcon. Implementation of these mitigation measures will ensure that any impacts to these species are less than significant. (EIR, p. III.N-73-74, 112, Parks, Open Space And Concept Plan, pp. 158-164.)

The Redevelopment Project could impact wetlands and other aquatic habitat in connection with shoreline improvements and the construction of the Yosemite Slough Bridge, through direct filling or shading. (EIR, pp. III.N-56-68, 115 116.) Permanent impacts to these areas and other wetlands impacted by the Redevelopment Project are subject to mitigation requiring the restoration or creation of wetlands having an area at least equal to the areas permanently filled, and additional restored or created wetlands equal to at least 50 % of the area impacted by shade. (EIR, pp. III.N-56-68.) Such restoration or creation would be performed in accordance with the Wetlands and Jurisdictional Waters Mitigation and Monitoring Plan. (EIR, pp. III.N-60-62.)

In addition, mitigation measure MM BI-4a.2 requires that temporarily impacted sensitive habitats be restored to their pre-construction condition following the completion of construction activities, and that all temporarily impacted wetlands, and other jurisdictional waters, whether in tidal or non-tidal areas, shall be restored to pre-construction contours following construction. Such impact areas include areas that are dewatered (e.g., using coffer dams) and/or used for construction access. Temporarily impacted wetlands that were vegetated prior to construction shall be revegetated in accordance with a Wetlands and Jurisdictional Water Mitigation and Monitoring Plan, as described above. (EIR, pp. III.N-60-62.) A further mitigation measure requires Best Management Practices for construction, including erosion control measures

and culverts to maintain wetlands' hydrologic connections to drainages. (EIR, pp. III.N-62-63.) These mitigation measures will reduce wetland impacts to a less than significant level.

The Yosemite Slough Restoration Project will create and restore aquatic, wetland, and adjacent upland habitat in and around Yosemite Slough, which is also the site of the proposed Yosemite Slough Bridge. However, the bridge would not significantly affect the proposed restoration. The bridge would at most result in a negligible amount (0.0003 acre) of permanent fill in the areas that are to become new or restored wetlands under the Restoration Project, and would indirectly impact approximately 0.012 acres of new or restored wetlands with shading. These impacts will be compensated by the creation or restoration of similar habitat in accordance with the Wetlands and Jurisdictional Waters Mitigation and Monitoring Plan. (EIR, pp. III.N-60-62.)

Following implementation of the Yosemite Slough Restoration Project, and Construction of the Yosemite Slough Bridge, some reduction in wildlife use of the bridge footprint and immediate adjacent areas is expected to occur. However, reduction in use by wildlife species is not expected to rise to the level of significance. (EIR, Comments and Responses (C&R) p. 53.)

The species and habitats that presently occur or are expected to occur on the site are found throughout the Bay Area; Yosemite Slough does not, and will not, following implementation of the Restoration Project, support biological resources that are unique to the site or that do not occur in much greater abundance in other parts of the Bay Area. The Redevelopment Project area currently supports a relatively low number of common wildlife species and habitats due to its urban and heavily disturbed condition; these species occur in greater numbers at numerous other locations in the Bay Area. Therefore, any reduction in common species and habitats at the site would be insignificant in the regional context. Any impacts that would occur would be offset through implementation of the Habitat Plan (EIR, pp. III.N-50-51) and restoration and creation of wetland and aquatic habitats in accordance with the aforementioned Wetlands and Jurisdictional Waters Mitigation and Monitoring Plan. (EIR, pp. III.N-60-62.)

Stephen C. Rottenborn, Ph.D., of H.T. Harvey and Associates, provided analysis of biological resource impacts in the EIR, including the potential impacts of the proposed Yosemite Slough Bridge. His analysis of the bridge is included in part in the Comment and Response section of the EIR. Several differing professional opinions regarding the effect of the Yosemite Slough Bridge on special-status bird species, including Dr. Rottenborn's, have been expressed. The Director has determined that Dr. Rottenborn's opinions are well



founded. Dr. Rottenborn concluded that nesting special-status bird species are not likely to be adversely affected by use of the bridge. According to Dr. Rottenborn, those species are not expected to nest on the constructed “bird islands” that are proposed as part of the Yosemite Slough Restoration Project because the islands would not provide suitable habitat for these species (**EIR, p. C&R–35.**)

Dr. Rottenborn also concluded that: (1) increase in lighting from the Yosemite Slough Bridge is not expected to result in a significant impact to wildlife use of Yosemite Slough, and (2) loud noise from traffic, noise, and human use of the site and Yosemite Slough Bridge would not deter wildlife (particularly bird) use of high quality habitat areas once animals have habituated to the bridge and to vehicular noise levels.

These conclusions are based on observations of bird use at eight different reference sites within the Bay Area. Those sites are: 1) Coyote Creek Ranch 1A waterbird pond and South Coyote Slough (San Jose); 2) San Jose–Santa Clara Water Pollution Control Plan (San Jose); 3) Pond 16A New Chicago Marsh and Triangle Marsh (Alviso); 4) Shoreline Park (Mountain View); 5) Palo Alto Baylands (Palo Alto); 6) South Bayside System Authority Plant (Redwood City); 7) Crissy Field (San Francisco); and 8) East San Francisco Bay shoreline along I–580 north of the Bay Bridge.

Dr. Rottenborn predicts that bird use at Yosemite Slough would not be substantially reduced as a result of the bridge. He cites four reference areas where birds routinely fly over roads that are wider and/or more heavily used by traffic than is likely to occur on the Yosemite Slough Bridge. Those reference areas are: 1) Highway 92 in Hayward, where waterbirds move between the Eden Landing Ecological Reserve on the south side of the highway and Hayward Regional Shoreline on the north (and between the Bay mudflats adjacent to each of these two areas) by flying over the highway; 2) Highway 84 in Menlo Park and Fremont, where birds move between ponds and along the bay-shore on both ends of the Dumbarton Bridge by flying over the highway; 3) Highway 37 west of Vallejo, where birds move between San Pablo Bay to the south and the Napa River and associated marshes to the north by flying over the highway; and 4) Highway 101 south-east of Mill Valley, where birds move between the portions of upper Richardson Bay on either side of the highway by flying over the highway.

Based upon the bird behavior at the above reference sites, Dr. Rottenborn concludes that waterbirds using Yosemite Slough, either presently or after implementation of the restoration Redevelopment Project, would move between Yosemite Slough and South Basin/SF Bay Areas to the east if they perceive the habitat value of Yosemite Slough to be high enough.

Dr. Rottenborn also states that exhaust emissions due to the traffic use of the Yosemite Slough Bridge, even on game days, would not result in substantial adverse effects on habitats of the slough, including restored habitats under the Restoration Project. This statement was based upon conditions at four reference sites in the Bay Area. Those reference sites are: 1) Palo Alto Flood Control Basin along Highway 101 and its frontage road in Palo Alto; 2) marshes near Inner Bair Island along Highway 101 in Redwood City; 3) tidal salt marsh at the Bay edge at the I–80/I–880 junction at the east end of the Bay Bridge in Oakland; and 4) tidal marsh along Highway 37 at the San Pablo Bay National Wildlife Refuge. (**EIR, pp. C&R–47–50.**)

The portion of the Bay adjacent to the CPSRA and the rest of the Redevelopment Project site is designated as Essential Fish Habitat (EFH) in three federal fisheries management plans: the Pacific Coast Salmon Plan, the Coast Pelagics Fishery Management Plan, and the Pacific Groundfish Fishery Management Plan. (**EIR, p. III.N–88.**) The National Marine Fisheries Service has also designated this part of the Bay as critical habitat for green sturgeon and Central California Coast steelhead, both special-status species. (**EIR, p. III.N–85.**) The construction of Yosemite Slough Bridge and other shoreline improvements associated with the Redevelopment Project could cause temporary impacts to EFH and critical habitat from sediment suspension and turbidity during construction and some loss of such habitat from placement of permanent fill, but these potential impacts will be reduced to a level of insignificance by mitigation measures requiring seasonal restrictions on in-water construction to avoid times when special-status species are present, worker training, best management practices during construction, and compensatory provision of habitat for any filled areas. (**EIR, pp. III.N–85–93.**) Moreover, by removing piers and reducing coastal erosion, the Redevelopment Project would increase the amount and quality of open water on the site, thus providing new EFH and critical habitat and benefiting the species. (**EIR, pp. III.N–85–90.**)

Additional support for the finding that the Redevelopment Project will not significantly impact biological resources is found in the EIR and its supporting documents.

**(B) The Redevelopment Project Will Include Habitat Enhancement Measures To Benefit Migratory Birds And Other Wildlife:**

The following Habitat Enhancement Measures will be implemented as part of the Habitat Plan to enhance wildlife habitat conditions within the Redevelopment Project site:

*Control of non-native invasive species* — Invasive, non-native plant species would be removed during ini-

tial habitat enhancement efforts to provide areas for creation of higher-quality habitats and to prevent their spread into restored native habitats. Monitoring and ongoing control/removal of these species would be implemented. (**Parks, Open Space, and Habitat Concept Plan, p. 158**).

*Restoration of grasslands* — A Grasslands Ecology Park will be developed on the Hunters Point Shipyard area, and will create at least 43 new acres of native grassland through the removal of non-natives, and seeding and/or plugs of native grass and forb species. Detailed design of the grassland restoration areas will be performed by a qualified restoration ecologist. A list of native grasses and forbs that may be used is included in the Habitat Plan. (**Parks, Open Space, and Habitat Concept Plan, pp. 158–160**.)

*Increase in tree/shrub cover* — Approximately 10,000 net, new trees will be planted throughout the Redevelopment Project area. While some of these trees will be planted as street trees or for ornamental purposes, a large number will be planted specifically with wildlife habitat in mind. Within parks such as the Grasslands Ecology Park (outside of the designated grassland restoration areas), trees, shrubs and ground cover will be planted in clusters to provide dense, multi-layered clumps of vegetation that will provide food, cover, and roosting, nesting, and foraging sites for a variety of wildlife species. Enhancement of raptor foraging habitat under the Draft Final Parks, Open Space, and Habitat Concept Plan will include restoration and management of grasslands and an increase in tree and shrub cover. (**EIR, MM-BI-7b**.) A list of native trees and shrubs that could be planted is included in the Plan, as well as detail about how the planting palette will allow for wildlife diversity. (**Parks, Open Space, and Habitat Concept Plan, pp. 160–62**.)

*Maintenance of habitat connectivity* — To help maintain habitat connectivity throughout the site, vegetated areas providing cover for dispersing mammals, reptiles, and amphibians would be provided. For example, along the southern edge of the Hunters Point Shipyard Phase II area, vegetated areas providing cover for dispersing mammals, reptiles, and amphibians would be provided. In some areas, restored tidal marsh will provide some habitat connectivity along the shoreline. “Hardened” shoreline treatments, such as rock, will provide interstitial spaces to provide cover for these small animals as well. (**Park, Open Space, and Habitat Concept Plan, p. 162**.) The Agreement further provides for the addition of property to the reconfigured CPSRA which will result in the widening of the CPSRA along the southwestern shoreline at an existing “pinch point”, allowing habitat enhancement and improving connectivity along CPSRA shoreline. (**Agreement, sections 3.1, 3.3, and 3.5**.)

*Maintenance of refugia for waterbirds* — At least one shoreline area at least 200 feet from the nearest formal trail or shoreline observation area will be provided where waterbirds can roost at high tide. Here, waterbirds would be able to roost on riprap, beach, or some other open area removed from concentrated human activity. In addition, the bases of three piers in the southeastern corner of the Hunters Point Shipyard Phase II area will be removed to prevent mammals from accessing these piers. The remainder of each of these three piers will be left in place to provide roosting sites for gulls, cormorants, pelicans, and terns. Preventing mammalian predators from accessing these piers will make them safer for roosting waterbirds, and may also encourage some waterbirds to begin nesting on the piers. (**Parks, Open Space, and Habitat Concept Plan, pp. 162–163**.)

*Increase in open water habitat* — New subtidal and intertidal habitat will be created along much of the eastern shoreline of the Hunters Point Shipyard Phase II area when existing pier walls are removed and the edges of the existing shoreline “laid back.” The Redevelopment Project as a whole will result in a net increase of eight acres of open water that can serve as habitat for fish and benthic organisms. (**Parks, Open Space, and Habitat Concept Plan, pp. 163–164**.)

In addition, the EIR includes a discussion of how the Redevelopment Project will benefit the main wildlife groups:

Extensive planting of native vegetation would enhance the vegetation community as well as enhance habitat for common butterflies, birds, small mammals, reptiles, and amphibians on the Redevelopment Project site;

In the case of migratory birds, the Redevelopment Project would result in a net benefit that would have regional or flyway-level implications, as the Redevelopment Project would enhance foraging habitat that is used by birds breeding and wintering in areas far from the Study area;

Neotropical and other long-distance migrants, the landbird group using the site that is of greatest conservation concern, would receive a considerable net benefit from the Redevelopment Project. Increases in foliage height diversity and vegetation volume resulting from the planting of numerous trees and shrubs on the site, most of which currently supports little woody vegetation, would result in increase in the diversity and abundance of both breeding and migratory birds. [Three references are provided for this statement: 1) MacArthur, R.H. and J.W. MacArthur. 1961. On bird species diversity. *Ecology* 42:594–598, 2) Karr, J.R. 1968. Habitat and avian diversity on

strip-mined land in east-central Illinois. Condor 70:348–357, 3) Mills, G.S., J.B. Dunning, Jr., and J.M. Bates. 1991. The relationship between breeding bird density and vegetation volume. Wilson Bulletin 103:468–479]; and

The Redevelopment Project’s revegetation component and the addition of new parklands will provide a net enhancement of breeding, wintering, and migratory stopover habitat for birds in the Redevelopment Project area. (EIR, pp. III.N–50–54.)

**FINDING NO. 6:**

**THE AGREEMENT SATISFIES APPLICABLE REQUIREMENTS OF THE LAND AND WATER CONSERVATION FUND ACT OF 1965 (16 U.S.C. SEC. 4601–et seq.)**

**Support For Finding No. 6:**

The federal Land and Water Conservation Fund Act of 1965, provides that property acquired or developed or improved with the assistance of the federally-created Land and Water Conservation Fund (LWCF) cannot be “converted” to uses other than public outdoor recreation unless the conversion is approved by the Secretary of the Interior. The Secretary may approve a conversion if it is “in accord with the then existing comprehensive statewide outdoor recreation plan, and only upon such conditions as he deems necessary to assure the substitution of other recreation properties of at least equal fair market value and of reasonably equivalent usefulness and location.” (16 U.S.C. sec. 4601(f) (3).)

Approximately 35 acres of land within the existing CPSRA is subject to LWCF restrictions. (David Siegenthaler, Department of Interior letter to Barbara Baker, State Parks, dated March 29, 2010.) Of that 35 acre area, approximately 3.7 acres is proposed to be removed from the existing CPSRA and conveyed to the Agency by State Parks, including 0.7+/- acres of water pipeline, 0.20+/- acres of sewer line and 2.8+/- acres of land improved with a paved parking area and an adjacent grassy area. The proposed substitute or replacement property consists of 4.8+/- acres of land located directly adjacent to the existing CPSRA along Jamestown Avenue, and 0.9+/- acres of land located near Yosemite Slough. (Agreement, Exhibit A.) (BMS Design Group, Map of Proposed 6 (F) (3) Lands, August 24, 2010.)

State Parks is transmitting a formal application for conversion approval to the Department of Interior. The California Outdoor Recreation Plan (2008) is California’s comprehensive statewide outdoor recreation plan; the proposed conversion is consistent with that Plan. The proposed substitute or replacement property is of reasonably equivalent usefulness and location, as the property proposed to be removed from the existing CPSRA.

State Parks’ obligation to transfer the LWCF protected land to the Agency is expressly conditioned upon the approval of the Secretary of Interior. No conversion will take place under the Agreement until this approval has been obtained by the Secretary. (Agreement, section 13.4.)

**FINDING NO. 7:**

**TWENTY PERCENT OF THE TOTAL CONSIDERATION VALUE PROVIDED BY THE AGREEMENT WILL BE PROVIDED IN THE FORM OF OPERATION AND MAINTENANCE FUNDING.**

**Support for Finding No. 7:**

Section 4.1 of the Agreement obligates the Agency to provide \$10 million to State Parks for the exclusive purpose of a dedicated source of operation and maintenance of the reconfigured CPSRA, which is twenty (20) percent of the value of the \$50 million total consideration provided for in the Agreement. (Agreement, section 4.1.)

**DEPARTMENT OF PUBLIC HEALTH**

NOTICE IS HEREBY GIVEN that the California Department of Public Health, Center for Health Care Quality, Licensing & Certification Program (hereinafter referred to as the “Department”), pursuant to GC Section 11346.45, is inviting interested parties to participate in a public discussion and submit statements and comments regarding the substance of regulations governing Administrative Penalties described in Health & Safety Code Sections 1280.1, 1280.3, and 1280.4 and Adverse Events described in Health & Safety Code Section 1279.1 prior to the start of the formal rulemaking process.

Any person interested may present statements orally or in writing relevant to these issues at a pre-notice meeting to be held at the **East End Complex Auditorium, 1500 Capitol Ave., Sacramento, California 95814 at 8:30 a.m., Monday, January 10, 2011.**

Written comments, including those sent by mail, facsimile, or e-mail to the address listed under Contact Persons in this Notice, must be received by the Department at its office not later than 5:00 p.m. on Monday, January 10, 2011, or must be received at the meeting.

The meeting is accessible to the physically disabled. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting Edwin Hoffmark at (800) 236-9747, or email [RNUnit@cdph.ca.gov](mailto:RNUnit@cdph.ca.gov), or send a written request to the Department at PO Box 997377; MS 3201, Sacramento, CA 95899-7337. Providing your request at least seven (7) business days before the meeting will help to ensure availability of the requested accommodation.



Contact Persons:

Jennifer Hoke, Chief of Certification & Regulations  
OR  
Edwin Hoffmark, RN Unit Chief

CDPH, Licensing & Certification  
PO Box 997377; MS 3201  
Sacramento, CA 95899-7377  
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**PROPOSITION 65**

**OFFICE OF ENVIRONMENTAL  
HEALTH HAZARD ASSESSMENT**

**CALIFORNIA ENVIRONMENTAL  
PROTECTION AGENCY  
OFFICE OF ENVIRONMENTAL HEALTH  
HAZARD ASSESSMENT**

**SAFE DRINKING WATER AND TOXIC  
ENFORCEMENT ACT OF 1986  
(PROPOSITION 65)**

**REQUEST FOR RELEVANT INFORMATION  
ON CHEMICALS BEING CONSIDERED  
FOR LISTING BY THE AUTHORITATIVE  
BODIES MECHANISM:**

**ANDROSTENEDIONE,  
DIBROMOACETONITRILE,  
HEXACHLOROBUTADIENE, AND  
MALONALDEHYDE, SODIUM SALT**

**November 26, 2010**

The California Environmental Protection Agency's Office of Environmental Health Hazard Assessment (OEHHA) is requesting information as to whether the chemicals identified in the table below meet the criteria for listing under the Safe Drinking Water and Toxic Enforcement Act of 1986.<sup>1</sup> This action is being proposed under the authoritative bodies listing mechanism.<sup>2</sup>

Chemical (CAS No.)	Endpoint	Reference	Occurrence
<i>Androstenedione</i> (63-05-8)	Cancer	NTP (2010a)	Precursor to male and female sex hormones produced by the human body; dietary supplement currently banned by the U.S. Food and Drug Administration
<i>Dibromoacetonitrile</i> (3252-43-5)	Cancer	NTP (2010b)	By-product of drinking water disinfection by ozone or chlorination disinfection processes in the presence of natural organic matter and bromine
<i>Hexachlorobutadiene</i> (87-68-3)	Cancer	U.S. EPA (2003)	Waste by-product from hydrocarbon chlorination processes; chemical intermediate in the manufacture of rubber, chlorofluorocarbons, lubricants, and transformer and hydraulic fluids
<i>Malonaldehyde, sodium salt</i> (24382-04-5).	Cancer	NTP (1988)	The sodium salt of malonaldehyde is unlikely to occur in nature, and has no industrial use. Malonaldehyde is a natural metabolic by-product of prostaglandin biosynthesis and an end product of polyunsaturated lipid peroxidation.

<sup>1</sup> Commonly known as Proposition 65, the Safe Drinking Water and Toxic Enforcement Act of 1986 is codified in Health and Safety Code section 25249.5 *et seq.*

<sup>2</sup> See Health and Safety Code section 25249.8(b) and Title 27, Cal. Code of Regs., section 25306.



**Background on listing via the authoritative bodies mechanism:** A chemical must be listed under the Proposition 65 regulations when two conditions are met:

- 1) An authoritative body formally identifies the chemical as causing cancer (Section 25306(d)<sup>3</sup>).
- 2) The evidence considered by the authoritative body meets the sufficiency criteria contained in the regulations (Section 25306(e)).

However, the chemical is not listed if scientifically valid data which were not considered by the authoritative body clearly establish that the sufficiency of evidence criteria were not met (Section 25306(f)).

The National Toxicology Program (NTP) and the U.S. Environmental Protection Agency (U.S. EPA) are two of several institutions designated as authoritative for the identification of chemicals as causing cancer (Section 25306(m)).

OEHHA is the lead agency for Proposition 65 implementation. After an authoritative body has made a determination about a chemical, OEHHA evaluates whether listing under Proposition 65 is required using the criteria contained in the regulations.

**OEHHA's determination:** *Androstenedione, dibromoacetonitrile, hexachlorobutadiene, and malonaldehyde, sodium salt* appear to meet the criteria for listing as known to the State to cause cancer under Proposition 65, based on findings of the NTP and the U.S. EPA.

**Formal identification and sufficiency of evidence for androstenedione:** In 2010, the NTP published a report on androstenedione, entitled *Toxicology and Carcinogenesis Studies of Androstenedione (CAS No. 63-05-8) in F344/N Rats and B6C3F1 Mice (Gavage Studies)*, that concludes that the chemical causes cancer (NTP, 2010a). This report appears to satisfy the formal identification and sufficiency of evidence criteria in the Proposition 65 regulations.

OEHHA is relying on the NTP's discussion of data and conclusions in the report that androstenedione causes cancer. The NTP (2010a) report concludes:

"Under the conditions of these 2-year gavage studies, there was *equivocal evidence of carcinogenic activity* of androstenedione in male F344/N rats based on increased incidences of alveolar/bronchiolar adenoma and alveolar/bronchiolar adenoma or carcinoma (combined). There was *equivocal evidence of carcinogenic activity* of androstenedione in female F344/N rats based on increased incidences of mononuclear cell leukemia. There was *clear evidence of carcinogenic activity* of androstenedione in male B6C3F1 mice based on increased incidences of multiple hepatocellular adenoma and hepatocellular carcinoma and in-

creased incidence of hepatoblastoma. There was *clear evidence of carcinogenic activity* of androstenedione in female B6C3F1 mice based on increased incidences of hepatocellular adenoma and hepatocellular carcinoma. Increased incidences of pancreatic islet adenoma in male and female mice were also considered chemical related." (Emphasis in original)

Thus, the NTP (2010a) has found that androstenedione causes increased incidences of malignant and combined malignant and benign liver tumors in male and female mice.

**Formal identification and sufficiency of evidence for dibromoacetonitrile:** In 2010, the NTP published a report on dibromoacetonitrile, entitled *Toxicology and Carcinogenesis Studies of Dibromoacetonitrile (CAS No. 3252-43-5) in F344/N Rats and B6C3F1 Mice Drinking Water Studies*, that concludes that the chemical causes cancer (NTP, 2010b). This report appears to satisfy the formal identification and sufficiency of evidence criteria in the Proposition 65 regulations.

OEHHA is relying on the NTP's discussion of data and conclusions in the report that dibromoacetonitrile causes cancer. The NTP (2010b) report concludes:

"Under the conditions of these 2-year drinking water studies there was *clear evidence of carcinogenic activity* of dibromoacetonitrile in male rats based on increased incidences of squamous cell papillomas or carcinomas of the oral cavity; adenomas in the glandular stomach of male rats were also considered to be exposure-related. There was *some evidence of carcinogenic activity* of dibromoacetonitrile in female rats based on an increased incidence of squamous cell papillomas of the oral cavity; increased incidences of basal cell or squamous cell neoplasms of the skin in female rats may have been related to dibromoacetonitrile exposure. There was *clear evidence of carcinogenic activity* of dibromoacetonitrile in male mice based on increased incidences of squamous cell papillomas or carcinomas of the forestomach. Increased incidences of neoplasms in the liver of male mice may have been related to dibromoacetonitrile exposure. There was *clear evidence of carcinogenic activity* of dibromoacetonitrile in female mice based on increased incidences of squamous cell papilloma of the forestomach." (Emphasis in original)

Thus, the NTP (2010b) has found that dibromoacetonitrile causes increased incidences of combined malignant and benign tumors of the oral cavity in male rats and combined malignant and benign forestomach tumors in male mice.

<sup>3</sup> All referenced sections are from Title 27 of the Cal. Code of Regulations.

**Formal identification and sufficiency of evidence for hexachlorobutadiene:** In 2003, the U.S. EPA published a report on hexachlorobutadiene, entitled *Health Effects Support Document for Hexachlorobutadiene*, that concludes that the chemical causes cancer (U.S. EPA, 2003). This report appears to satisfy the formal identification and sufficiency of evidence criteria in the Proposition 65 regulations.

OEHHA is relying on the U.S. EPA's discussion of data and conclusions in the report that hexachlorobutadiene causes cancer. The U.S. EPA (2003) report concludes that hexachlorobutadiene is "likely to be carcinogenic to humans by the oral route of exposure." In its report, the U.S. EPA describes studies of rats treated with hexachlorobutadiene in their diet for two years showing increases in the incidence of malignant tumors (e.g., adenocarcinomas) of the renal tubule in male and female rats and incidences of combined malignant and benign tumors of the renal tubules in both male and female rats.

Thus, the U.S. EPA (2003) has found that hexachlorobutadiene causes increased incidences of malignant and combined malignant and benign kidney tumors in male and female rats.

**Formal identification and sufficiency of evidence for malonaldehyde, sodium salt:** In 1988, the NTP published a report on malonaldehyde, sodium salt, entitled *Toxicology and Carcinogenesis Studies of Malonaldehyde, Sodium Salt (3-Hydroxy-2-propenal, Sodium Salt) (CAS No. 24382-04-5) in F344/N Rats and B6C3F1 Mice (Gavage Studies)*, that concludes that the chemical causes cancer (NTP, 1988). This report appears to satisfy the formal identification and sufficiency of evidence criteria in the Proposition 65 regulations.

OEHHA is relying on the NTP's discussion of data and conclusions in the report that malonaldehyde, sodium salt causes cancer. The NTP (1988) report concludes:

"Under the conditions of these 2-year gavage studies, there was *clear evidence of carcinogenic activity* for male and female F344/N rats administered malonaldehyde, sodium salt, as shown by the increased incidences of follicular cell adenomas or carcinomas (combined) of the thyroid gland. Pancreatic islet cell adenomas were also observed at an increased incidence in low dose male rats. There was *no evidence of carcinogenic activity* for B6C3F<sub>1</sub> mice administered 60 or 120 mg/kg malonaldehyde, sodium salt, in distilled water by gavage 5 days per week for 2 years." (Emphasis in original)

Thus, NTP (1988) has found that malonaldehyde, sodium salt causes increased incidences of combined ma-

lignant and benign tumors of the thyroid gland in male and female rats.

**Request for relevant information:** OEHHA is committed to public participation in its implementation of Proposition 65. OEHHA wants to ensure that its regulatory decisions are based on a thorough consideration of all relevant information. OEHHA is requesting public comment concerning whether these chemicals meet the criteria set forth in the Proposition 65 regulations for authoritative bodies listings.

After reviewing all comments received, OEHHA will determine whether the identified chemical meets the regulatory criteria for administrative listing. For chemicals determined to meet the listing criteria, OEHHA will proceed with the listing process and publish a Notice of Intent to List.

In order to be considered, **OEHHA must receive comments by 5:00 p.m. on Tuesday, January 25, 2011.** We encourage you to submit comments in electronic form, rather than in paper form. Comments transmitted by e-mail should be addressed to [coshita@oehha.ca.gov](mailto:coshita@oehha.ca.gov). Comments submitted in paper form may be mailed, faxed, or delivered in person to the addresses below:

Mailing Address: Ms. Cynthia Oshita  
Office of Environmental Health  
Hazard Assessment  
P.O. Box 4010, MS-19B  
Sacramento, California  
95812-4010

Fax: (916) 323-8803

Street Address: 1001 I Street  
Sacramento, California 95814

**Optional public forum:** Upon request, OEHHA will schedule a public forum to provide individuals an opportunity to present oral comments on the possible listing of these chemicals. At the forum, the public may discuss the scientific data and other relevant information related to whether these chemicals meet the criteria for listing in the regulations.

Requests for a public forum must be submitted in writing no later than Friday, December 24, 2010. The written request must be sent to OEHHA at the mailing address above. If a public forum is requested, a notice will be posted on the OEHHA web site at least ten days before the forum date. The notice will provide the date, time, location and subject matter to be heard. Notices will also be sent to those individuals requesting such notification.

If you have any questions, please contact Ms. Oshita at [coshita@oehha.ca.gov](mailto:coshita@oehha.ca.gov) or at (916) 445-6900.

#### References

National Toxicology Program (NTP, 1988). *Toxicology and Carcinogenesis Studies of Malonaldehyde, Sodium Salt (3-Hydroxy-2-propenal, Sodium Salt) (CAS No. 24382-04-5) in F344/N Rats and B6C3F1 Mice (Gavage Studies)*. NTP Technical Report Series No. 331. NIH Publication No. 89-2587, U.S. Department of Health and Human Services, NTP Research Triangle Park, NC.

National Toxicology Program (NTP, 2010a). *Toxicology and Carcinogenesis Studies of Androstenedione (CAS No. 63-05-8) in F344/N Rats and B6C3F1 Mice (Gavage Studies)*. NTP Technical Report Series No. 560. NIH Publication No. 10-5901. U.S. Department of Health and Human Services, NTP, Research Triangle Park, NC.

National Toxicology Program (NTP, 2010b). *Toxicology and Carcinogenesis Studies of Dibromoacetonitrile (CAS No. 3252-43-5) in F344/N Rats and B6C3F1 Mice (Drinking Water Studies)*. NTP Technical Report Series No. 544. NIH Publication No. 10-5886. U.S. Department of Health and Human Services, NTP, Research Triangle Park, NC.

U.S. Environmental Protection Agency (U.S. EPA, 2003). *Health Effects Support Document for Hexachlorobutadiene*. Health and Ecological Criteria Division, Office of Water. EPA 822-R-03-002, February 2003.

## SUMMARY OF REGULATORY ACTIONS

### REGULATIONS FILED WITH SECRETARY OF STATE

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

File# 2010-1005-04

BOARD OF PHARMACY

Patient Centered Prescription Label

This regulatory action adopts section 1707.5 to require patient-centered labels for prescription drug containers to conform to certain format requirements, such as, requiring specific information to be in at least 10-point sans serif typeface and placed within a certain area on the label, and establishes which phrase to use for

the directions for use of the drug. Section 1707.5 also requires that the label include the name of the drug and defines "name of the drug" to mean either: (1) the manufacturer's trade name of the drug, or (2) the generic name of the drug and the name of the manufacturer. Section 1707.5 further requires the Board to publish on its Web site: (1) a translation of the directions for use of the drug into at least five languages other than English by October 2011, and (2) examples of labels that conform to section 1707.5 to aid pharmacies in label design and compliance. Additionally, section 1707.5 requires pharmacies to have written policies and procedures in place to help patients with limited or no English proficiency understand the information that is required to be on the label. The policies and procedures will, at a minimum, include the selected means to identify the patient's language and to provide interpretive services in the patient's language. Lastly, this regulation defines "appropriate dosage form" to include pill, caplet, capsule or tablet.

Title 16

California Code of Regulations

ADOPT: 1707.5

Filed 11/17/2010

Effective 01/01/2011

Agency Contact: Carolyn Klein (916) 574-7913

File# 2010-1019-04

CORRECTIONS STANDARDS AUTHORITY

2007 Local Jail Construction Funding Program — Phase I — 2009 Edition

This rulemaking is the resubmittal filing of previously withdrawn OAL file number 2010-0728-02S. The resubmittal adopts a revised online application form ("2007 Local Jail Construction Funding Program, AB 900 — Phase 1 — 2009 Edition Proposal Form, dated July 21, 2009"), to be utilized for a second round of applications in response to CSA's second request for proposal regarding construction or expansion of county jails pursuant to bond funds authorized by AB 900 (Stats. 2007, Chap. 7).

Title 15

California Code of Regulations

AMEND: 1730, 1778, 1790

Filed 11/16/2010

Effective 12/16/2010

Agency Contact:

Charlene Aboytes

(916) 324-1914

File# 2010-1007-01

DEPARTMENT OF DEVELOPMENTAL SERVICES  
Conflict-of-Interest Code

This is a Conflict-of-Interest Code filing that has been approved by the Fair Political Practices Commis-



sion and is being submitted for filing with the Secretary of State and printing in the California Code of Regulations only.

Title 17  
California Code of Regulations  
AMEND: 50300  
Filed 11/10/2010  
Effective 12/10/2010  
Agency Contact: Presley Clark (916) 657-3216

File# 2010-1004-01  
DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING  
Conflict-of-Interest Code

This is a Conflict-of-Interest Code filing that was approved by the Fair Political Practices Commission and is being submitted for filing with the Secretary of State and printing only.

Title 2  
California Code of Regulations  
AMEND: 7286.1  
Filed 11/16/2010  
Effective 12/16/2010  
Agency Contact: Megan Elsea (916) 478-7266

File# 2010-1006-01  
DEPARTMENT OF FOOD AND AGRICULTURE  
European Grapevine Moth Interior Quarantine

The Department of Food and Agriculture submitted this timely certificate of compliance action to make permanent the emergency adopted regulations in OAL File Nos. 2010-0412-01E and 2010-0426-02E, which expanded the quarantine areas for the European Grapevine Moth, *Lobesia botrana*, into Napa, Solano, and Sonoma counties.

Title 3  
California Code of Regulations  
AMEND: 3437  
Filed 11/17/2010  
Effective 11/17/2010  
Agency Contact:  
Susan McCarthy (916) 654-1017

File# 2010-1101-03  
DEPARTMENT OF FOOD AND AGRICULTURE  
Registration and Certification of Citrus Trees

The Department of Food and Agriculture submitted this timely certificate of compliance action to make permanent the portion of OAL File No. 2010-0506-02E that repealed title 3, California Code of Regulations,

sections 3000-3004. The repeal of sections 3000-3004 eliminated a voluntary program for testing, maintaining, registering, and certifying citrus stock, which essentially became obsolete after passage of SB 140 and the implementing regulations for the mandatory cleanliness program adopted in OAL File No. 2010-0506-02E.

Title 3  
California Code of Regulations  
REPEAL: 3000, 3001, 3002, 3003, 3004  
Filed 11/15/2010  
Effective 11/15/2010  
Agency Contact:  
Susan McCarthy (916) 654-1017

File# 2010-1110-01  
DEPARTMENT OF FOOD AND AGRICULTURE  
Light Brown Apple Moth Interior Quarantine

The Department of Food and Agriculture submitted this rulemaking action to readopt the emergency text in OAL File No. 2010-0329-01E, which expired by operation of law on 10/5/2010 and was withdrawn from OAL File No. 2010-1005-02C. This action amends title 3, California Code of Regulations, section 3434, which expands the quarantine areas for the Light Brown Apple Moth (*LBAM*), *Epiphyas postvittana*, in two areas of Monterey County.

Title 3  
California Code of Regulations  
AMEND: 3434(b)  
Filed 11/17/2010  
Effective 11/17/2010  
Agency Contact:  
Stephen S. Brown (916) 654-1017

File# 2010-1005-02  
DEPARTMENT OF FOOD AND AGRICULTURE  
Light Brown Apple Moth Interior Quarantine

The Department of Food and Agriculture submitted this certificate of compliance action to make permanent the regulations adopted in five emergency actions, OAL File Nos. 2010-0311-01E (readopted in 2010-0913-03EE), 2010-0329-01E, 2010-0415-03E, 2010-0426-01E, and 2010-0517-02E to expand the quarantine areas for the Light Brown Apple Moth (*LBAM*), *Epiphyas postvittana*, in counties throughout the state. The *LBAM* emergencies amended title 3, California Code of Regulations, section 3434. This action was submitted timely for all underlying emergency actions except for OAL File No. 2010-0329-01E, which was withdrawn on 11/10/2010.



Title 3  
California Code of Regulations  
AMEND: 3434(b)  
Filed 11/17/2010  
Effective 11/17/2010  
Agency Contact:  
Stephen S. Brown (916) 654-1017

File# 2010-0930-04  
DEPARTMENT OF HEALTH CARE SERVICES  
Drug Medi-Cal Rates

This is the Certificate of Compliance to make permanent the prior emergency regulatory action (OAL file no. 2010-0608-02E) that updated the Medi-Cal reimbursement rates for substance abuse (Drug Medi-Cal) services for Fiscal Year (FY) 2003-2004 through FY 2009-2010. There are also several non-substantive changes made through section 51516.1 of Title 22 of the California Code of Regulations.

Title 22  
California Code of Regulations  
AMEND: 51516.1  
Filed 11/10/2010  
Effective 11/10/2010  
Agency Contact: Lori Manieri (916) 650-6825

File# 2010-1001-01  
DIVISION OF WORKERS COMPENSATION  
Workers' Compensation Information System

This rulemaking action updates the Workers' Compensation Information System (WCIS) to remain compatible with the Electronic Data Interchange (EDI) system of the International Association of Industrial Accident Boards and Commissions (IAIABC) pursuant to California Labor Code Section 138.6. Specifically, this rulemaking action: eliminates unnecessary data elements, adds relevant data elements, corrects errors in regulation text, adds lien payment data elements for medical bill payment reporting, and updates and makes corresponding, correcting, and efficiency-enhancing changes to two California-specific, WCIS-EDI guidebooks: California EDI Implementation Guide for First and Subsequent Reports of Injury and California EDI Implementation Guide for Medical Bill Payment Records.

Title 8  
California Code of Regulations  
AMEND: 9701, 9702  
Filed 11/15/2010  
Effective 11/15/2011  
Agency Contact:  
George Parisotto (415) 703-4600

File# 2010-1020-04  
FAIR POLITICAL PRACTICES COMMISSION  
Gift and Election Campaign Limits

The Fair Political Practices Commission (Commission) amends Sections 18545, 18703.4, 18730, 18940.2, and 18943 of Title 2 of the California Code of Regulations. Specifically, the Commission modifies campaign contribution limits and makes clarifying grammatical changes.

Title 2  
California Code of Regulations  
AMEND: 18545, 18703.4, 18730, 18940.2, 18943  
Filed 11/15/2010  
Effective 12/15/2010  
Agency Contact:  
Virginia Latteri-Lopez (916) 324-3854

File# 2010-1020-03  
FAIR POLITICAL PRACTICES COMMISSION  
Defining Express Advocacy

The Fair Political Practices Commission (Commission) amends Section 18225 of Title 2 of the California Code of Regulations. Specifically, the Commission provides examples of communications that urge a particular result in an election as well as those that do not, defines the reasonable person standard used to interpret such communications, and establishes safe harbor provisions for certain types of communications.

Title 2  
California Code of Regulations  
AMEND: 18225  
Filed 11/15/2010  
Effective 12/15/2010  
Agency Contact:  
Virginia Latteri-Lopez (916) 324-3854

File# 2010-1109-05  
STATE WATER RESOURCES CONTROL BOARD  
Emergency Fee Regulations to Conform with Budget Act 2010-11

This California Water Code Section 1530(b) emergency rulemaking action is the annual adjustment of water rights fees paid by state, local and private entities so as to conform to the revenue levels set by the annual budget act. This rulemaking action decreases slightly the fee caps on application and petition fees, removes reference to the one-time credit which fee-paying entities received under the 2009-2010 budget act, and increases the per kilowatt fee charged for projects licensed or undergoing licensing by the Federal Energy Regulatory Commission for activities that involve hydroelectric facilities.

Title 23  
California Code of Regulations  
AMEND: 1062, 1064, 1066, 3833.1  
Filed 11/17/2010  
Effective 11/17/2010  
Agency Contact: Bob Rinker (916) 322-3143

**CCR CHANGES FILED  
WITH THE SECRETARY OF STATE  
WITHIN June 16, 2010 TO  
November 17, 2010**

All regulatory actions filed by OAL during this period are listed below by California Code of Regulations titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

**Title 2**

11/16/10 AMEND: 7286.1  
11/15/10 AMEND: 18545, 18703.4, 18730, 18940.2, 18943  
11/15/10 AMEND: 18225  
10/29/10 ADOPT: 1859.90.2 AMEND: Renumber 1859.90.2 to 1859.90.3, 1859.129, 1859.197  
10/28/10 AMEND: 59.1  
10/27/10 ADOPT: 1185.21, 1189 AMEND: 1181, 1181.1, 1181.2, 1181.4, 1183, 1183.01, 1183.02, 1183.03, 1183.06, 1183.07, 1183.08, 1183.081, 1183.09, 1183.11, 1183.12, 1183.131, 1183.14, 1183.2, 1183.21, 1183.30, 1183.31, 1183.32, 1185, 1185.2, 1185.3, 1185.4, 1185.5, 1185.6, 1186, 1187, 1187.2, 1187.3, 1187.9, 1188, 1188.1, 1188.2, 1188.3, 1188.31, 1189.1, 1189.3 REPEAL: 1181.3, 1189.4, 1189.5  
10/26/10 ADOPT: 2297.1  
10/21/10 ADOPT: 58.8 AMEND: 59.3  
10/11/10 ADOPT: 599.937.4  
10/07/10 AMEND: 51.1  
10/07/10 AMEND: 51.2(u)  
10/07/10 AMEND: div. 8, ch. 46, sec. 53500  
10/05/10 AMEND: div. 8, ch. 79, sec. 56800  
10/05/10 ADOPT: 1859.172 AMEND: 1859.162.3, 1859.171  
10/04/10 AMEND: 1859.2, 1859.81  
10/04/10 ADOPT: 642, 643, 644, 645 AMEND: 640, 641  
09/27/10 AMEND: 18942, 18944.1

09/07/10 AMEND: Renaming of headings only, as follows: Article 4 of Chapter 1 to new Subchapter 1.2; Subarticles 1-10 of new Subchapter 1.2 to new Articles 1-10; and Chapters 1-5 of new Article 6 to new Subarticles 1-5.  
09/02/10 ADOPT: 60804.1, 60815.1, 60820.1, 60855, 60856, 60857, 60858, 60859, 60860, 60861, 60862, 60863 AMEND: 60841, 60846, 60853 REPEAL: 60855  
09/01/10 AMEND: 234, 548.70  
09/01/10 AMEND: 234, 548.70  
08/18/10 ADOPT: 51.3, 52.1, 52.2, 52.3, 52.5, 52.8, 52.10, 53.1, 53.2, 53.3, 53.4, 54.1, 55.1, 56.1, 56.2, 56.3, 56.4, 57.1, 57.2, 58.1, 58.2, 58.6, 58.7, 58.9, 58.10, 58.11, 59.2, 59.3, 59.4, 60.1, 63.1, 64.1, 64.2, 64.3, 64.4, 64.5, 64.6 AMEND: 51 (renumbered to 51.1), 51.1 (renumbered to 51.2), 51.2 (renumbered to 52.4), 52.3 (renumbered to 52.6), 51.9 (renumbered to 52.7), 51.5 (renumbered to 52.9), 52.6 (renumbered to 55.2), 52.2 (renumbered to 58.3), 51.4 (renumbered to 58.4), 52.1 (renumbered to 58.5), 57.2 (renumbered to 59.1), 52.5 (renumbered to 60.2), 57.3 (renumbered to 60.3), 53.1 (renumbered to 66.1), 56 (renumbered to 67.1), 56.1 (renumbered to 67.2), 56.2 (renumbered to 67.3), 56.3 (renumbered to 67.4), 56.4 (renumbered to 67.5), 56.5 (renumbered to 67.6), 56.6 (renumbered to 67.7), 56.7 (renumbered to 67.8) REPEAL: 51.3, 52, 52.4, 53, 53.2, 54, 54.2, 56.8, 57.1, 57.4, 60, 60.1, 60.2, 60.3, 60.4, 60.5, 60.6, 60.7, 60.8, 60.9, 60.10, 65, 547, 547.1  
08/13/10 AMEND: 18707  
07/08/10 AMEND: 18313.5(c)  
07/06/10 AMEND: 51000  
07/01/10 AMEND: 1859.90.1  
06/24/10 ADOPT: 1859.90.1 AMEND: 1859.90.1 renumbered as 1859.90.2, 1859.129, 1859.197  
06/24/10 AMEND: 47000, 47001, 47002  
06/23/10 AMEND: 1859.184  
06/17/10 AMEND: 18703.3  
06/17/10 ADOPT: 18313.5

**Title 3**

11/17/10 AMEND: 3434(b)  
11/17/10 AMEND: 3434(b)  
11/17/10 AMEND: 3437  
11/15/10 REPEAL: 3000, 3001, 3002, 3003, 3004  
11/09/10 AMEND: 3437  
10/27/10 AMEND: 6447, 6447.2, 6784

10/21/10	AMEND: 3591.5(a)	07/29/10	ADOPT: 5170, 5180, 5181, 5182, 5183, 5190, 5191, 5192, 5193, 5194, 5200, 5210, 5211, 5212, 5220, 5230, 5231, 5232, 5240, 5250, 5260, 5265, 5266, 5267, 5268, 5269, 5270, 5275, 5280, 5281, 5282, 5283, 5290, 5291, 5300, 5310, 5311, 5312, 5313, 5314, 5315, 5320, 5321, 5330, 5340, 5350, 5360, 5370, 5371, 5372, 5380, 5381, 5382, 5383, 5384, 5400, 5410, 5411, 5420, 5421, 5422, 5423, 5430, 5431, 5432, 5433, 5434, 5435, 5440, 5450, 5460, 5461, 5470, 5560, 5570, 5571, 5572, 5573, 5580, 5590
10/18/10	AMEND: 3437(b)	07/22/10	AMEND: 10300, 10302, 10305, 10310, 10315, 10317, 10320, 10322, 10323, 10325, 10326, 10327, 10328, 10330, 10335, 10337
10/11/10	AMEND: 3558(a)	07/13/10	AMEND: 8034, 8035, 8042, 8043
10/11/10	AMEND: 3855	07/12/10	ADOPT: 5000, 5010, 5020, 5021, 5030, 5031, 5032, 5033, 5034, 5035, 5036, 5037, 5038, 5039, 5050, 5051, 5052, 5053, 5054, 5055, 5056, 5060, 5061, 5062, 5063, 5064, 5080, 5081, 5082, 5100, 5101, 5102, 5103, 5104, 5105, 5106, 5107, 5120, 5130, 5131, 5132, 5140, 5141, 5142, 5143, 5150, 5151, 5152, 5153, 5154, 5155, 5480, 5490, 5491, 5492, 5493, 5494, 5500, 5510, 5520, 5530, 5531, 5532, 5533, 5534, 5540, and 5550
10/06/10	ADOPT: 1391, 1391.1, 1391.2, 1391.3, 1391.4 AMEND: 1391 (renumbered to 1391.5), 1391.1 (renumbered to 1391.6)	06/21/10	AMEND: 8070, 8072, 8073, 8074
10/01/10	AMEND: 3434(b)	<b>Title 5</b>	
09/27/10	AMEND: 3	10/18/10	AMEND: 80015, 80015.1, 80015.2, 80015.3, 80015.4, 80021, 80021.1, 80024.7, 80024.8
09/27/10	AMEND: 3437	10/18/10	ADOPT: 1216.1
09/22/10	AMEND: 3591.20(a)	10/01/10	AMEND: 57020 REPEAL: 50721, 50722, 50723, 50724, 50725, 50727, 50728, 50729, 50730, 50731, 50732
09/14/10	AMEND: 3434(b)	09/13/10	ADOPT: 4800, 4801, 4802, 4803, 4804, 4805, 4806, 4807
09/13/10	ADOPT: 3437	08/30/10	ADOPT: 30960, 30961, 30962, 30963, 30964
09/09/10	AMEND: 3434(b)	08/24/10	REPEAL: 18015
09/02/10	AMEND: 3425(b)	08/20/10	AMEND: 80001
08/26/10	AMEND: 3406(b)	08/19/10	ADOPT: 59204.1
08/26/10	AMEND: 3406(b)	08/19/10	ADOPT: 11967.6.1 AMEND: 11967.6
08/26/10	AMEND: 3434(b) & (c)	08/09/10	ADOPT: 30010, 30011, 30012, 30013, 30014, 30015, 30016, 30017, 30018, 30019, 30034, 30035, 30036, 30037, 30038, 30039, 30040, 30041, 30042, 30043, 30044, 30045, 30046 AMEND: 30000, 30001, 30002, 30005, 30020,
08/26/10	ADOPT: 6531 AMEND: 6502, 6511, 6530		
08/24/10	AMEND: 3700(c)		
08/19/10	AMEND: 3423(b)		
08/17/10	AMEND: 3437		
08/16/10	AMEND: 3425(b) and (c)		
08/13/10	AMEND: 3591.15(a) and (b)		
08/11/10	AMEND: 3437		
08/05/10	AMEND: 3423(b)		
07/26/10	AMEND: 3435(c)		
07/20/10	AMEND: 3437		
07/16/10	AMEND: 3434(b) and (c)		
07/13/10	AMEND: 3591.20(a)		
07/07/10	ADOPT: 3591.24		
07/01/10	AMEND: 3437		
06/30/10	AMEND: 3423(b)		
06/18/10	AMEND: 6448, 6448.1, 6449, 6449.1, 6450, 6450.1, 6450.2, 6451, 6451.1		
<b>Title 4</b>			
11/04/10	AMEND: 8034, 8035, 8042, 8043		
11/02/10	AMEND: 12480, 12488, 12492, 12494, 12496, 12498, 12499, 12501, 12502, 12504, 12508		
10/26/10	AMEND: 1844		
10/04/10	ADOPT: 10030, 10031, 10032, 10033, 10034, 10035, 10036		
09/29/10	AMEND: 8070, 8072, 8073, 8074		
09/15/10	AMEND: 10323		
09/09/10	AMEND: 1766		
09/09/10	AMEND: 10152, 10153, 10154, 10155, 10156, 10157, 10158, 10159, 10160, 10161, 10162, 10164		
08/30/10	ADOPT: 213.2 AMEND: 211, 213, 293, 405		
08/20/10	AMEND: 130		
08/16/10	AMEND: 1689		

	30021, 30022, 30023, 30030, 30032, 30033		73470, 73480, 73500, 73520, 73530, 73540, 73550, 73600, 73610, 73620, 73630, 73640, 73650, 73660, 73670, 73680, 73690, 73700, 73710, 73720, 73730, 73740, 73750, 73760, 73765, 73770, 73780, 73790, 73800, 73820, 73830, 73831, 73832, 73850, 73860, 73870, 73880, 73890, 73900, 73910, 74008, 74010, 74014, 74016, 74018, 74020, 74030, 74040, 74050, 74100, 74180, 74300, 74310, 74320, 75000, 75020, 75030, 75040, 75100, 75110, 75120, 75130, 76010, 76240
08/02/10	ADOPT: 4700, 4701, 4702		
07/30/10	ADOPT: 70030, 70040, 71135, 71320, 71390, 71395, 71400.5, 71401, 71475, 71480, 71485, 71640, 71650, 71655, 71716, 71750, 71760, 74110, 74115, 76020, 76140, 76212, 76240 AMEND: 70000, 70010, 70020, 71100, 71110, 71120, 71130, 71140, 71150, 71160, 71170, 71180, 71190, 71200, 71210, 71220, 71230, 71240, 71250, 71260, 71270, 71280, 71290, 71300, 71310, 71340, 71380, 71400, 71405, 71450, 71455, 71460, 71465, 71470, 71500, 71550, 71600, 71630, 71700, 71705, 71710, 71715, 71720, 71730, 71735, 71740, 71745, 71770, 71810, 71850, 71865, 71920, 71930, 74000, 74002, 74004, 74006, 74120, 74130, 74140, 74150, 74160, 74170, 74190, 74200, 76000, 76120, 76130, 76200, 76210, 76215 REPEAL: 70030, 71000, 71005, 71010, 71020, 71330, 71360, 71410, 71415, 71420, 71490, 71495, 71505, 71510, 71515, 71520, 71555, 71560, 71565, 71605, 71610, 71615, 71650, 71655, 71725, 71775, 71800, 71805, 71830, 71855, 71860, 71870, 71875, 71880, 71885, 71890, 71900, 71905, 71910, 72000, 72005, 72010, 72020, 72101, 72105, 72110, 72120, 72130, 72140, 72150, 72160, 72170, 72180, 72190, 72200, 72210, 72220, 72230, 72240, 72250, 72260, 72270, 72280, 72290, 72300, 72310, 72330, 72340, 72360, 72380, 72400, 72405, 72410, 72415, 72420, 72450, 72455, 72460, 72465, 72470, 72500, 72505, 72515, 72520, 72550, 72555, 72560, 72565, 72570, 72600, 72605, 72610, 72615, 72650, 72655, 72700, 72701, 72705, 72710, 72715, 72720, 72725, 72730, 72735, 72740, 72745, 72770, 72775, 72800, 72805, 72810, 72830, 72850, 72855, 72860, 72865, 72870, 72875, 72880, 72885, 72890, 72900, 72905, 72910, 72915, 72920, 72930, 73000, 73010, 73100, 73110, 73120, 73130, 73140, 73150, 73160, 73165, 73170, 73180, 73190, 73200, 73210, 73220, 73230, 73240, 73260, 73270, 73280, 73290, 73300, 73310, 73320, 73330, 73340, 73350, 73360, 73380, 73390, 73400, 73410, 73420, 73430, 73440,	07/23/10	AMEND: 19816, 19816.1
		<b>Title 7</b>	
		11/09/10	AMEND: 219, 202
		10/13/10	AMEND: 212.5
		10/13/10	AMEND: 212.5
		06/21/10	AMEND: 202 REPEAL: 212
		<b>Title 8</b>	
		11/15/10	AMEND: 9701, 9702
		11/04/10	AMEND: 16423 REPEAL: 16450, 16451, 16452, 16453, 16454, 16455, 16460, 16461, 16462, 16463, 16464
		11/02/10	ADOPT: 5197
		11/02/10	AMEND: 1504, 1637, 3622
		10/27/10	ADOPT: 1600.1 AMEND: 1600, 1601
		10/05/10	AMEND: 3395
		09/27/10	AMEND: 10232.2
		09/23/10	AMEND: 9767.3
		09/14/10	AMEND: 10253.1
		09/13/10	AMEND: 5206(d)(4)(a), 1532.2(d)(4)(a), 8359(d)(4)(a)
		09/01/10	AMEND: 1502
		08/30/10	AMEND: 4848
		08/30/10	AMEND: 5158
		08/25/10	AMEND: Appendix B following section 5207
		08/17/10	AMEND: 4885
		08/09/10	AMEND: 9767.3, 9767.6, 9767.8, 9767.12, 9767.16, 9880, 9881, 9881.1, 10139
		08/03/10	AMEND: 3563, 3651
		07/22/10	AMEND: 5278
		07/13/10	AMEND: 9789.70
		07/01/10	AMEND: 4650, 4797, 4823
		06/30/10	AMEND: 10232.1, 10232.2, 10250.1
		06/30/10	ADOPT: 17300
		06/29/10	ADOPT: 16450, 16451, 16452, 16453, 16454, 16455, 16460, 16461, 16462, 16463, 16464 AMEND: 16421, 16423, 16427, 16428, 16431, 16433, 16500
		06/21/10	AMEND: 344.30



**Title 9**

10/18/10 ADOPT: 1810.326, 1810.376, 1810.439  
 AMEND: 1810.317, 1810.321,  
 1810.323, 1810.345, 1810.350,  
 1810.360, 1810.365, 1810.375,  
 1810.380, 1810.425, 1810.430,  
 1810.435, 1810.436, 1810.438,  
 1820.220, 1820.225, 1830.215,  
 1840.112, 1850.213  
 09/20/10 ADOPT: 7212.1, 7212.2, 7212.3, 7212.4  
 AMEND: 7210, 7211, 7212  
 09/20/10 ADOPT: 7213, 7213.1, 7213.2, 7213.4,  
 7213.5, 7213.6, 7214, 7214.1, 7214.2,  
 7214.3, 7214.4, 7214.5, 7214.6, 7214.7,  
 7214.8, 7215, 7215.1, 7216, 7216.1,  
 7216.2, 7218, 7220, 7220.3, 7220.5,  
 7220.7, 7221, 7225 AMEND: 7213.3,  
 7224, 7226, 7226.1, 7226.2, 7227,  
 7227.1, 7227.2 REPEAL: 7213, 7213.1,  
 7213.2, 7214, 7215, 7216, 7218, 7219,  
 7220, 7221, 7225  
 08/09/10 ADOPT: 4100, 4105, 4210, 4300, 4310,  
 4315, 4320, 4325, 4330, 4415, 4420  
 07/07/10 ADOPT: 1850.350(a), 1850.350(b),  
 1850.350(c) AMEND: 1810.203.5(d)  
 07/07/10 ADOPT: 1850.350(a), 1850.350(b),  
 1850.350(c) AMEND: 1810.203.5(d)

**Title 10**

11/04/10 AMEND: 2689.8(c)  
 10/21/10 AMEND: 2498.6  
 10/18/10 ADOPT: 3575, 3576, 3577 AMEND:  
 3500, 3522, 3523, 3524, 3526, 3527,  
 3528, 3529, 3530, 3582, 3681, 3702,  
 3703, 3721, 3724, 3726, 3728, 3731,  
 3741  
 10/11/10 ADOPT: 2278.50, 2278.51, 2278.52,  
 2278.53, 2278.54, 2278.55, 2278.56,  
 2278.57, 2278.58, 2278.59  
 09/28/10 ADOPT: 1409.1, 1414, 1422.4, 1422.4.1,  
 1422.5, 1422.6, 1422.6.1, 1422.6.2,  
 1422.6.3, 1422.7, 1422.7.1, 1422.9,  
 1422.10, 1422.11, 1422.12, 1424, 1437,  
 1950.122, 1950.122.2.1, 1950.122.4,  
 1950.122.4.1, 1950.122.5, 1950.122.5.1,  
 1950.122.5.2, 1950.122.5.3,  
 1950.122.5.4, 1950.122.6, 1950.122.7,  
 1950.122.8, 1950.122.9, 1950.122.10,  
 1950.122.11, 1950.122.12, 1950.205.1,  
 1950.209, 1950.307 AMEND: 1404,  
 1409, 1411, 1430.5, 1431, 1433, 1436,  
 1454, 1550, 1552, 1557, 1950.003,  
 1950.122.2, 1950.123, 1950.204.3,  
 1950.204.4, 1950.301, 1950.314.8,  
 1950.316, 1950.317 REPEAL: 1950.122

09/23/10 AMEND: 2274.70, 2274.71, 2274.72,  
 2274.73, 2274.74, 2274.75, 2274.76,  
 2274.77, 2274.78  
 09/20/10 AMEND: 2494.4.9  
 09/16/10 AMEND: 3006, 3007, 3007.05, 3007.2,  
 3007.3, 3007.6, 3008, 3010, 3011.1,  
 3011.2, 3011.4, 3012.2 REPEAL: 3005  
 08/24/10 AMEND: 3525, 3527, 3541, 3542, 3543,  
 3544, 3561, 3563, 3566, 3568, 3569,  
 3570, 3583, 3602, 3603, 3661, 3722  
 08/05/10 AMEND: 2646.6  
 07/30/10 AMEND: 2699.6700  
 07/29/10 ADOPT: 2548.1, 2548.2, 2548.3, 2548.4,  
 2548.5, 2548.6, 2548.7, 2548.8, 2548.9,  
 2548.10, 2548.11, 2548.12, 2548.13,  
 2548.14, 2548.15, 2548.16, 2548.17,  
 2548.18, 2548.19, 2548.20, 2548.21,  
 2548.22, 2548.23, 2548.24, 2548.25,  
 2548.26, 2548.27, 2548.28, 2548.29,  
 2548.30, 2548.31 REPEAL: 2548.1,  
 2548.2, 2548.3, 2548.4, 2548.5, 2548.6,  
 2548.7, 2548.8  
 07/21/10 ADOPT: 3575, 3576, 3577 AMEND:  
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 07/19/10 ADOPT: 2274.70, 2274.71, 2274.72,  
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 07/12/10 AMEND: 2698.600, 2698.602  
 07/01/10 AMEND: 2699.200, 2699.201  
 06/29/10 ADOPT: 2756, 2758.1, 2758.2, 2758.3,  
 2758.4, 2758.5, 2758.6, 2758.7, 2945.1,  
 2945.2, 2945.3, 2945.4 AMEND: 2750,  
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 06/24/10 AMEND: 2699.6500, 2699.6700,  
 2699.6707, 2699.6721

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11/02/10 ADOPT: 51.26  
 10/07/10 ADOPT: 994.9, 994.10, 994.11, 994.12,  
 994.13, 994.14, 994.15 AMEND: 994.1,  
 994.2, 994.4, 994.5, 994.6 REPEAL:  
 994.9, 994.10, 994.11, 994.12, 994.13,  
 994.14, 994.15, 994.16  
 10/06/10 AMEND: 9040, 9041

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11/09/10 AMEND: 551.15, 551.17, 556, 558, 561,  
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 11/08/10 AMEND: 1956.8, 1958, 1961, 1976,  
 1978, 2111, 2122, 2136, 2141 REPEAL:  
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	2172.4, 2172.5, 2172.6, 2172.7, 2172.8, 2172.9, 2173, 2174	10/11/10	ADOPT: 3999.10
10/12/10	ADOPT: 1235.7 AMEND: 1200, 1235.1, 1235.2, 1235.4, 1256	09/22/10	ADOPT: 3999.9
08/12/10	ADOPT: 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630	09/09/10	AMEND: 3605
07/29/10	REPEAL: 171.04	08/19/10	ADOPT: 3268.3 AMEND: 3000, 3268, 3268.1, 3268.2
07/23/10	ADOPT: 126.00, 126.02, 126.04, 127.00, 127.02, 127.04, 127.06, 127.08, 127.10 AMEND: 125.00, 125.02, 125.12, 125.16, 125.18, 125.20, 125.22	08/13/10	ADOPT: 3540, 3541, 3542, 3543, 3544, 3545, 3546, 3547, 3548, 3560, 3561, 3562, 3563, 3564, 3565
07/16/10	AMEND: 2449, 2449.1, 2449.2	08/11/10	AMEND: 3350.2, 3352.2, 3356, 3358, 3390
07/08/10	AMEND: 1141(b)	08/05/10	REPEAL: 3999.3
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10/19/10	AMEND: Title 13: 2025, 2449, 2449.3, 2452, 2453, 2456, 2458, 2460, 2461, 2462 and Title 17: 93116.1, 93116.2, 93116.3	08/05/10	REPEAL: 3999.5
<b>Title 14</b>		08/04/10	ADOPT: 3042 AMEND: 3040, 3040.1, 3041, 3041.2, 3043, 3043.1, 3043.3, 3043.4, 3043.5, 3043.6, 3044, 3045, 3045.1, 3045.2, 3045.3 REPEAL: 3040.2
11/09/10	AMEND: 163, 164	07/30/10	ADOPT: 3349.1.1, 3349.1.2, 3349.1.3, 3349.1.4, 3349.2.1, 3349.2.2, 3349.2.3, 3349.2.4, 3349.3, 3349.3.1, 3349.3.2, 3349.3.3, 3349.3.4, 3349.3.5, 3349.3.6, 3349.3.7, 3349.4.1, 3349.4.2, 3349.4.3, 3349.4.4, 3349.4.5, 3349.4.6 AMEND: 3349
10/27/10	AMEND: 18660.40	07/27/10	REPEAL: 3999.2
10/18/10	AMEND: 13800	07/22/10	ADOPT: 3768, 3768.1, 3768.2, 3768.3 REPEAL: 3999.6
10/11/10	ADOPT: 749.6	07/13/10	ADOPT: 3505 AMEND: 3000, 3075.2, 3075.3, 3502, 3504
10/07/10	AMEND: 20030, 20040, 20050, 20060, 20070, 20080, 20090, 20100, 20110	07/02/10	ADOPT: 8000, 8001, 8002
10/05/10	AMEND: 125, 125.1	<b>Title 16</b>	
10/05/10	ADOPT: 700.3 AMEND: 105, 105.1, 106, 107, 110, 112, 116, 119, 120.2, 120.3, 102.6, 120.7, 122, 123, 124.1, 126, 147, 149.1, 150, 150.02, 150.03, 150.05, 180.3, 180.15, 700.4, 705	11/17/10	ADOPT: 1707.5
10/05/10	AMEND: 25231	11/08/10	AMEND: 1974, 1996.1
09/21/10	AMEND: 502, 507	10/18/10	AMEND: 3394.3, 3394.4, 3394.6
09/21/10	AMEND: 787.1, 787.4, 787.5, 787.6 REPEAL: 787.2, 787.9	10/12/10	AMEND: 1399.501, 1399. 511, 1399.520, 1399.525, 1399.526, 1399.527, 1399.545, 1399.550, 1399.556, 1399.573, 1399.612 REPEAL: 1399.508
09/08/10	AMEND: 300	09/30/10	AMEND: 4200, 4202, 4204, 4206, 4208, 4210, 4212, 4214, 4216, 4218, 4220, 4226, 4228, 4230, 4234, 4236, 4240, 4242, 4244, 4246, 4248, 4250, 4252, 4254, 4258, 4264
08/16/10	AMEND: 918, 938, 958	09/29/10	AMEND: 109(b)(2), 109(b)(7), 117(e)(2), 121(a)(2)
08/12/10	AMEND: 6550.5	09/23/10	AMEND: 1391.1
08/11/10	AMEND: 895.1, 916.9, 936.9, 956.9, 923.9, 943.9, 963.9 REPEAL: 916.9.1, 936.9.1, 916.9.2, 936.9.2, 923.9.2, 943.9.2	09/23/10	ADOPT: 1399.419.1, 1399.419.2
07/20/10	AMEND: 670.5	09/22/10	ADOPT: 39, 40, 41, 42, 43, 44, 45, 46, 48, 48.1, 48.2, 48.3, 48.5, 48.6
07/19/10	AMEND: 632	09/21/10	ADOPT: 1426.1, 1430, 1431 AMEND: 1420, 1421, 1422, 1423, 1424, 1425, 1425.1, 1426, 1427, 1428, 1428.6, 1429, 1430 (renumbered to 1432)
07/12/10	AMEND: 7.50		
06/24/10	AMEND: 360, 361, 362, 363, 364, 555, 708, 713		
06/23/10	AMEND: 919.9, 939.9		
<b>Title 15</b>			
11/16/10	AMEND: 1730, 1778, 1790		
10/14/10	ADOPT: 4168.7, 4171.5 AMEND: 4166, 4168, 4168.5, 4169, 4169.5, 4169.9, 4170.5, 4171, 4173, 4174, 4174.5, 4174.6 REPEAL: 4172		

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08/18/10	AMEND: 1721, 1723.1	09/01/10	AMEND: 1601, 1602, 1604, 1605.3, 1606, 1607
08/12/10	AMEND: 2537, 2590		
07/30/10	ADOPT: 3394.7 AMEND: 3394.1, 3394.4, 3394.5, 3394.6	07/08/10	AMEND: 2401, 2402, Appendix, Subdivisions (a) and (b)
07/21/10	REPEAL: 1569	<b>Title 21</b>	
07/21/10	ADOPT: 2262.1 AMEND: 2262, 2276	09/30/10	AMEND: 7000
07/09/10	AMEND: 3000, 3003, 3005, 3065	<b>Title 22</b>	
	REPEAL: 3006	11/10/10	AMEND: 51516.1
07/09/10	AMEND: 411	10/26/10	AMEND: 97234, 97264, 97267
07/09/10	AMEND: 3340.42	10/06/10	AMEND: 100080
07/07/10	AMEND: 3028, 3061	10/06/10	AMEND: 100080
06/30/10	AMEND: 1355.4	08/23/10	AMEND: 926-3, 926-4, 926-5
06/21/10	ADOPT: 1525, 1525.1, 1525.2	08/02/10	ADOPT: 119900
06/18/10	ADOPT: 39, 40, 41, 42, 43, 44, 45, 46, 48, 48.1, 48.2, 48.3, 48.5, 48.6	07/26/10	REPEAL: 97300.1, 97300.3, 97300.5, 97300.7, 97300.9, 97300.11, 97300.13, 97300.15, 97300.17, 97300.19, 97300.21, 97300.23, 97300.25, 97300.27, 97300.29, 97300.31, 97300.33, 97300.35, 97300.37, 97300.39, 97300.41, 97300.43, 97300.45, 97300.47, 97300.49, 97300.51, 97300.53, 97300.55, 97300.57, 97300.59, 97300.61, 97300.63, 97300.65, 97300.67, 97300.69, 97300.71, 97300.73, 97300.75, 97300.77, 97300.79, 97300.81, 97300.83, 97300.85, 97300.87, 97300.89, 97300.91, 97300.93, 97300.95, 97300.97, 97300.99, 97300.103, 97300.105, 97300.107, 97300.109, 97300.111, 97300.113, 97300.115, 97300.117, 97300.119, 97300.121, 97300.123, 97300.125, 97300.127, 97300.129, 97300.131, 97300.133, 97300.135, 97300.137, 97300.139, 97300.141, 97300.143, 97300.145, 97300.147, 97300.149, 97300.151, 97300.153, 97300.155, 97300.157, 97300.159, 97300.161, 97300.163, 97300.165, 97300.167, 97300.169, 97300.171, 97300.173, 97300.175, 97300.177, 97300.179, 97300.181, 97300.183, 97300.185, 97300.187, 97300.189, 97300.191, 97300.193, 97300.195, 97300.197, 97300.199, 97300.203, 97300.205, 97300.207, 97300.209, 97300.211, 97300.213, 97300.215, 97300.217, 97300.219, 97300.221, 7300.223, 97300.225, 97300.227, 97300.229, 97300.231, 97320.1,
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11/10/10	AMEND: 50300		
11/09/10	AMEND: 30253, 30255, 30256		
10/20/10	ADOPT: 95380, 95381, 95382, 95383, 95384, 95385, 95386, 95387, 95388, 95389, 95390, 95391, 95392, 95393, 95394, 95395, 95396, 95397, 95398		
10/13/10	AMEND: 30100, 30195 REPEAL: 30321, 30321.1, 30322		
09/20/10	AMEND: 94508, 94509, 94510, 94511, 94512, 94513, 94515		
09/09/10	AMEND: 94801, 94804, 94805, 94806		
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08/30/10	ADOPT: 95550		
08/26/10	AMEND: 60201, 60203, 60207, 60210, 70300, 70301, 70302, 70303, 70303.1, 70303.5, 70304, 70305, 70306		
06/29/10	AMEND: 100070, 100090		
06/17/10	ADOPT: 95460, 95461, 95462, 95463, 95464, 95465, 95466, 95467, 95468, 95469, 95470, 95471, 95472, 95473, 95474, 95475, 95476, Appendix 1		
06/17/10	ADOPT: 95200, 95201, 95202, 95203, 95204, 95205, 95206, 95207 AMEND: 95104		
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10/18/10	AMEND: 1020 REPEAL: 471		
08/26/10	AMEND: 1598		
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06/17/10	AMEND: 25136		
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07/13/10	AMEND: 2729.7 and Appendix B of Article 4		
06/17/10	ADOPT: 1054, 1055, 1056, 1057, 1058, 1059, 1060, 1061, 1062, 1063, 1064, 1065, 1066, 1067		

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97320.23, 97320.25, 97320.27,	97350.7, 97350.9, 97352.1, 97352.3,
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97321.103, 97321.105, 97321.107,	97385.3, 97385.5, 97390.1, 97390.3,
97321.109, 97321.111, 97321.113,	97391.1, 97392.1, 97392.3, 97392.5,
97321.115, 97321.117, 97321.119,	97392.7, 97392.9, 97392.11, 97392.13,
97321.121, 97321.123, 97321.125,	97394.1, 97395.1, 97395.3, 97401.1,
97321.127, 97321.129, 97321.131,	97401.3, 97401.5, 97402.1, 97403.1,
97321.133, 97321.135, 97321.137,	97403.3, 97404.1, 97404.3, 97404.5,
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97324.23, 97324.25, 97324.27,	97425.3, 97425.5, 97425.7, 97425.9,
97324.29, 97324.31, 97324.33,	97426.1, 97426.3, 97426.5, 97426.7,
97324.35, 97324.37, 97324.39,	97426.9, 97426.11, 97431.1, 97431.3,
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97324.53, 97324.55, 97324.57,	97434.9
97324.59, 97324.61, 97324.63,	07/23/10 AMEND: 66261.3, 66261.4, 66268.1,
97324.65, 97324.67, 97324.69,	66268.7, 66268.9, 66268.124
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97331.5, 97331.7, 97332.1, 97333.1,	07/21/10 AMEND: 97232
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97333.11, 97333.13, 97333.15,	51510.3, 51511, 51511.5, 51511.6,
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 09/27/10 ADOPT: 2922  
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 09/15/10 ADOPT: 3929.4  
 07/19/10 ADOPT: 6932 REPEAL: 6932

07/12/10 ADOPT: 3929.3

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07/13/10 AMEND: 25705(b)

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09/03/10 ADOPT: 31-021 AMEND: 31-003,  
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